



Arizona State Board of Pharmacy

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**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING SEPTEMBER 11 AND SEPTEMBER 12, 2007
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE
PHOENIX, AZ**

MINUTES FOR REGULAR MEETING

AGENDA ITEM 1 – Call to Order – September 11, 2007

President Van Hassel convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Tom Van Hassel, Vice President Zina Berry, Chuck Dutcher, Steven Haiber, Dennis McAllister, and Ridge Smidt. The following staff members were present: Compliance Officers Rich Cieslinski, Chuck Cordell, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 2 – Declaration of Conflicts of Interest

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Conferences for Complaint #3349 and #3371.

Due to a conflict of interest, Mr. Van Hassel recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 8, License Application Review for Frank Kolovrat, Jr.

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 7, Special Request by Mark Heisler to terminate probation.

Assistant Attorney General, Elizabeth Campbell requested that the Board Members leave the table when they have recused themselves from participating in the discussion of a particular agenda item.

AGENDA ITEM 3 - Introduction of Tenant Improvement Crew

President Van Hassel stated that the Board would like to introduce the tenant improvement crew and thank them for all the hard work that they did in remodeling the old offices into the brand new Board Room.

Mr. Wand introduced the following members of the Tenant Improvement Crew: John McNally, Hector Ramirez, Heather Funk, Ron Austin, Al Marquez, Barbara Loza, and John Webster.

AGENDA ITEM 4 – Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. McAllister and Dr. Berry**, the minutes of the Regular Meeting held on July 25 and 26, 2007 were unanimously approved by the Board Members with one correction to be made on Page 31, paragraph 3, line 3 changing does to does not.

AGENDA ITEM 5 – Consideration of Request to Continue Hearing – Lisa Hunter – Case No. 08-0003-PHR

President Van Hassel stated that Ms. Hunter is requesting a continuance of Case 08-0003-PHR.

Elizabeth Campbell, Assistant Attorney General for the State was present. Brent Peugeot, Attorney for Ms. Hunter was present.

Mr. Peugeot stated that they have presented a joint motion to continue the hearing. Mr. Peugeot stated that he is asking for the continuance because he had little time to prepare for the hearing. Mr. Peugeot stated that Ms. Hunter was out of the country until September 5, 2007 and he was out of the country until September 10, 2007. Mr. Peugeot stated that he is in the process of gathering the necessary documents. Mr. Peugeot stated that Ms. Hunter is not working and does not intend to work until this matter is resolved.

Ms. Campbell stated that during the course of preparing for the hearing she became aware of two additional incidents that she would like to add into the complaint. Ms. Campbell stated that she cannot add the additional incidents unless the hearing is continued.

Dr. Berry asked how the Board can be assured that Ms. Hunter would not work during this period. Mr. Wand stated that it is stated in the request that she would not work until the hearing and if the Board accepts her request that would mean she could not work.

Ms. Campbell stated that this is not a consent agreement, but this is Ms. Hunter's representation to the Board promising that she would not work during this period.

Mr. Peugeot stated that if Ms. Hunter worked during this period it would be a misrepresentation to the Board and the Board could charge her with another violation.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously accepted the Joint Request to continue the Hearing for Lisa Hunter, Case No. 08-0003- PHR until the November Board Meeting.

AGENDA ITEM 6 – Requests/Applications for Permits & Licenses

President Van Hassel stated that all permits were in order for resident pharmacies and representatives were present to answer questions from Board members.

Ave Maria Pharmacy

Owner and Pharmacist In Charge Patrick McNerney was present to answer Board Member's questions.

President Van Hassel opened the discussion by asking Mr. McNerney if he has ever owned a pharmacy prior to this pharmacy. Mr. McNerney replied no.

Mr. Van Hassel asked Mr. McNerney where his new pharmacy would be located. Mr. McNerney stated that his pharmacy would be located in Prescott Valley.

Mr. Van Hassel stated that he noticed that Mr. McNerney was applying for a limited service permit and asked Mr. McNerney to describe his business.

Mr. McNerney stated that he would not be providing walk-in service and that is why he applied for a limited service permit. Mr. McNerney stated that he would be delivering or mailing all prescriptions.

Mr. Van Hassel asked Mr. McNerney if he would be filling prescriptions for nursing homes or if he would be filling any IV medications.

Mr. McNerney replied that he would be filling regular prescriptions. Mr. McNerney stated that he would not be preparing IV medications. Mr. McNerney stated that he would be doing minimal compounding.

Mr. Dutcher asked about the limited service status. Mr. Dutcher asked Mr. McNerney if he was attempting to be an independent mail order pharmacy. Mr. McNerney replied yes.

Mr. Dutcher asked Mr. McNerney how he would receive the prescriptions that he planned to fill. Mr. McNerney replied that they would be mailed, faxed, or phoned to the pharmacy. Mr. McNerney stated that he is also looking at receiving prescriptions through the Internet like many other retail pharmacies.

Mr. Dutcher asked Mr. McNerney if he is aware that there must be a valid doctor-patient relationship in order to process the Internet prescriptions. Mr. McNerney replied yes.

Mr. Dutcher asked Mr. McNerney how he was planning on advertising his business. Mr. McNerney stated that he plans on advertising in the newspaper. Mr. McNerney stated that he plans on assisting patients that have difficulty getting to a pharmacy.

Mr. Wand asked Mr. McNerney if he plans to participate in an arrangement where the patient fills out an Internet Questionnaire and he would then fill the prescriptions. Mr. McNerney replied no because that would not be a valid patient-doctor relationship.

Mr. Wand asked Mr. McNerney how he would be receiving prescriptions over the internet. Mr. McNerney stated that the doctor would send the prescription to him over the internet.

Mr. Wand asked Mr. McNerney if he meant that he would be filling electronic prescriptions versus internet prescriptions. Mr. McNerney stated that he would be filling electronic prescriptions and not prescriptions issued by a doctor over the internet.

At the conclusion of questions from the Board Members and **on motion by Mr. Dutcher and Dr. Berry**, the Board unanimously approved the resident permits listed below. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

RESIDENT (In Arizona)

Pharmacy	Location	Owner
Critical Care Systems	5880 N. La Cholla Blvd., Tucson, AZ 85741	Critical Care Systems
Douglas Pharmacy	94 W. 5 th St., Douglas, AZ 85607	Douglas Pharmacy, LLC
CVS/pharmacy #1720	21200 E. Ocotillo Rd., Queen Creek, AZ 85242	German Dobson CVS, LLC.
Apothecary Shop of Phoenix III	1144 E. McDowell Rd. #402, Phoenix, AZ 85006	Apothecary Shop of Phoenix III, Inc.
Clinica Del Alma	3690 S. Park Ave., Suite 805, Tucson, AZ 85713	Marana Health Center, Inc.
Ave Maria Pharmacy	8098 E. Valley Rd., Ste 3, Prescott Valley, AZ 86314	Ave Maria Pharmacy, PLLC
Wal-Mart Pharmacy 10-3845	6645 W. Peoria, Glendale, AZ 85301	Wal-Mart Stores, Inc.
Longs Drug Store #775	1930 S. Alma School Rd., Ste A208, Mesa, AZ 85210 (O)	Longs Drug Store #775
Longs Drug Store #776	8836 N. 23 rd Ave., Ste B1, Phoenix, AZ 85021 (O)	Longs Drug Store #776
Biotech Cyclotron of Arizona	4540 E. Cotton Gin Loop, Phoenix, AZ 85040	Biotech Cyclotron, LLC
Community Pharmacy II	777 W. Southern Ave., #D-415, Mesa, AZ 85210	Community Drugstore, LLC
Fry's Food and Drug #689	12100 N. Thornydale Rd., Marana, AZ 85653	Smiths Food & Drug Centers, Inc.
Fry's Food and Drug #679	15950 S. Rancho Sahuarita Blvd., Sahuarita, AZ 85629	Smiths Food & Drug Centers, Inc.
Preferred Homecare Infusion	1080 N. Swan Rd., Tucson, AZ 85711 (O)	Preferred Homecare Infusion

(O) = Ownership Change

Non-Resident Permits

At the conclusion of questions from the Board Members and **on motion by Mr. Haiber and Dr. Berry**, the Board unanimously approved the non-resident permits listed below.

NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
IVRX Pharmacy	30 Hillside Ave, Suite 202, Springfield, NJ 07081	IVRX, LLC
ITC Compounding & Natural Wellness Pharmacy	651 Topeka Way #600, 651 Topeka Way #600	Infusion Treatment Centers, Inc.
Depot Drug	1040 N. 2200 W., Suite 200, Salt Lake City, UT 84116	Union Pacific RR Employee Health System
Village Compounding Pharmacy	975 Corbindale Rd., Ste 100, Houston, TX 77024	Village Compounding Pharmacy
T.S. Rx, Inc.	9720 Beechnut St., Ste 475, Houston, TX 77036	T.S. Rx., Inc.
AnazaoHealth Corporation	5706 Benjamin Center Dr., Ste 103, Tampa, FL 33634	AnazaoHealth Corporation
Central Coast Pharmacy Specialists	590-A S. Main St, Templeton, CA 93465	BBAD Enterprises
Troy Pharmacy	1612 Lowrie St., Pittsburg, PA 15212	Troy Pharmacy
Liberty Medical Supply of Ohio	255 Phillipi Rd, Suite 100, Columbus, OH 43228	Liberty Healthcare Group, Inc.
Pet Pharmacy RX	2790 Loker Ave West, Suite 113, Carlsbad, CA 92010	Jeri Clark
Buderer Drug Co.	633 Hancock St., Sanduskey, OH 44870	Buderer Drug Co., Inc.
US Bioservices	3730 Glendale Dr. #150, Charlotte, NC 78208	HIS Acquisition XXX, Inc.

(O) = Ownership Change

Wholesaler Permits

President Van Hassel stated that all permits were in order for resident wholesalers and representatives were present to answer questions from Board members.

Option 1 Nutrition Solutions, LLC

James Wiley, President and CEO, was present to answer questions for Board Members. Roger Morris was present as Legal Counsel for the company.

President Van Hassel opened the discussion by asking the representatives to discuss their business.

Mr. Morris stated that this is a wholesale permit that is being requested.

Mr. Wiley stated that the company is a provider of enteral therapy non-pharmaceutical products that are distributed for tube feeding. Mr. Wiley stated that there are several devices that they have found that are marked with “Rx only” on the package.

Mr. Van Hassel asked if they also have a facility in Nevada. Mr. Wiley replied yes.

Dr. Smidt asked why they would need a wholesale permit because there are several DME companies sending these products to patients.

Mr. Morris stated that the purpose of the wholesale permit is because the company has one product that requires a prescription. Mr. Morris stated that the transaction would be conducted with the physician and the physician would send the product to the patient or the physician would instruct the wholesaler to send the product to the patient.

Mr. Morris stated that other companies are in violation of state pharmacy laws.

Dr. Smidt stated that he does not believe that this is the best solution. Mr. Morris stated that these items are prescription only devices and can only be dispensed by a prescription or sold by a wholesale transaction to a licensed provider.

Mr. Van Hassel asked if the topic could be placed on a future agenda for discussion.

Mr. Wand stated that the issue would be that the FDA determines what items require a prescription. Mr. Wand stated that California does have exempt products, but he is not sure how they get around the Federal Law.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously approved the resident wholesale permits listed below. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

WHOLESALER	LOCATION	OWNER
Sam's Cost Plus Inc.	1402 N. Alvernon Way, Tucson, AZ 85712	Sam's Cost Plus Inc.
Azur Pharma, Inc.	170 S. William Dillard Dr., Bldg 3-109, Gilbert, AZ 85233 (O)	Azur Pharma Limited II
Avent, Inc.	6620 S. Memorial Place, Suite 100, Tucson, AZ 85706	Avent, Inc.
Option 1 Nutrition Solutions, LLC	165 E. Comstock Dr., Chandler, AZ 85225	Option 1 Nutrition Solutions, LLC

Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees

President Van Hassel stated that all license requests and applications were in order.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously approved the Pharmacists licenses listed on the attachments.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously approved the Intern licenses listed on the attachments.

It was noted that there were several Pharmacy Technicians with duplicate license numbers. Ms. Campbell stated that the Board could approve the applications and allow the staff to deal with the duplicate numbering issues.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously approved the Pharmacy Technician and Pharmacy Technician Trainee applications listed on the attachments.

AGENDA ITEM 7 – Special Requests

#1 Mark Heisler

Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning this case.

Mark Heisler appeared on his own behalf to request that the Board terminate the probation of his pharmacist license per Board Order 02-0015-PHR. Lisa Yates was present to answer questions concerning Mr. Heisler's participation in the PAPA program.

President Van Hassel opened the discussion by asking Mr. Heisler to describe the nature of his request.

Mr. Heisler stated that he is requesting the termination of his probation. Mr. Heisler stated that he has completed his PAPA contract and the requirements of his consent agreement.

Mr. Van Hassel asked Ms. Yates if Mr. Heisler has completed all terms of his PAPA contract. Ms. Yates stated that Mr. Heisler has meet all the requirements of his PAPA contract.

Mr. Van Hassel asked Ms. Yates if all his PAPA fees were paid. Ms. Yates stated that all his fees were paid.

Mr. Heisler stated that he appreciates the Board's support of the PAPA program.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously approved the request by Mr. Heisler to terminate the probation imposed by Board Order 02-0015-PHR.

A roll call vote was taken. (Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

#2 Christine Pearce

Christine Pearce appeared on her own behalf to request that the Board terminate the probation of her pharmacist license per Board Order 01-0017-PHR. Lisa Yates was present to answer questions concerning Ms. Pearce's participation in the PAPA program.

President Van Hassel opened the discussion by asking Ms. Pearce to describe the nature of her request.

Ms. Pearce stated that she is requesting that her probation be terminated. Ms. Pearce stated that she has completed that PAPA program and the requirements of her consent agreement.

Mr. Van Hassel asked Ms. Yates if Ms. Pearce has completed all the requirements of her PAPA contract.

Ms. Yates replied that Ms. Pearce had completed all requirements of her PAPA contract and routinely helps new participants in the program.

Mr. Van Hassel asked if Ms. Pearce has paid all her fees to the PAPA program. Ms. Yates stated that Ms. Pearce has paid all her fees in a timely fashion during the program.

Mr. Dutcher asked Ms. Pearce why she did not appear a year ago when her consent agreement had ended. Ms. Pearce stated that she had signed an addendum to her PAPA contract that extended her PAPA contract for one year.

Ms. Yates stated that if Ms. Pearce had requested to appear last year that the PAPA steering committee would not have supported her request because Ms. Pearce would not have completed her contract.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously approved the request by Ms. Pearce to terminate the probation imposed by Board Order 01-0017-PHR.

A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

#3 Richard Pillon

Richard Pillon appeared on his own behalf to request that the Board terminate the probation of his pharmacist license per Board Order 07-0012-PHR. Mr. Pillon is requesting that his probation be terminated early.

President Van Hassel opened the discussion by asking Mr. Pillon to describe the nature of his request.

Mr. Pillon stated that he is requesting that the Board terminate his probation early.

Mr. Van Hassel asked Mr. Pillon to explain to the Board why the Board should terminate his probation early.

Mr. Pillon stated that he has not made any mistakes in filling prescriptions since he was prescribed prescription glasses. Mr. Pillon stated that he feels that after a year he has fulfilled his obligations to the state of Arizona.

Mr. Haiber asked Mr. Pillon if the Board had added an additional two years to his probation last year. Mr. Pillon replied yes.

Mr. Haiber asked why the additional two years were added to his probation. Mr. Pillon replied the additional two years were added for unprofessional conduct.

Mr. Haiber asked if the conditions of Mr. Pillon's original consent were met. Mr. Pillon stated that he completed the CE units, paid the fine, and completed his community service hours.

Mr. Haiber asked Mr. Pillon if he notified his employer that he was under a consent agreement. Mr. Pillon stated that he did not notify the first employer about the agreement.

Mr. Wand stated that Mr. Pillon did not notify the employer at the Indian hospital about the consent agreement and he was not to work at the Indian Hospital because it is not an Arizona licensed pharmacy and that is why the Board elected to add two additional years of probation when the new consent agreement was offered to Mr. Pillon.

Mr. Dutcher expressed concerns that the Board considers the terms of every consent agreement offered to the licensee and does not feel the Board should change the consent agreement once it is signed by the licensee.

Mr. McAllister stated that he agrees with Mr. Dutcher and does not feel that the consent agreement should be changed.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed to deny the request by Mr. Pillon to terminate the probation imposed by Board Order 07-0012-PHR. A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

#4 Thomas Dalkin

Thomas Dalkin appeared on his own behalf to request that the Board terminate the suspension of his pharmacist license and impose probation per Board Order 07-0016-PHR. Lisa Yates was present to answer questions concerning Mr. Dalkin's participation in the PAPA program. Jim Corrington, PAPA counselor, was present to answer questions concerning Mr. Dalkin's progress in the program.

President Van Hassel opened the discussion by asking Mr. Dalkin to describe the nature of his request. Mr. Dalkin stated that he would like to have his license changed from suspension to probation.

Mr. Van Hassel asked Ms. Yates if Mr. Dalkin has been compliant with his PAPA contract. Ms. Yates stated that Mr. Dalkin has been compliant.

Mr. Van Hassel asked Mr. Corrington to address the Board concerning Mr. Dalkin's progress.

Mr. Corrington stated that Mr. Dalkin attends his weekly counseling group. Mr. Corrington stated that he provides individual counseling to Mr. Dalkin twice a month. Mr. Corrington stated that Mr. Dalkin has accepted the responsibility for treating his disease. Mr. Corrington stated that Mr. Dalkin is taking an active part in his recovery program.

Mr. Dutcher asked Mr. Dalkin if he is prepared to go back into the workforce. Mr. Dalkin replied yes.

Mr. McAllister asked Mr. Dalkin about his criminal charges and his court probation. Mr. Dalkin stated that his court ordered probation is for three years and if he is compliant the probation period could be reduced.

On motion by Mr. Dutcher and Dr. Berry, the Board unanimously agreed to approve the request by Mr. Dalkin to terminate the suspension imposed on his license and impose probation per Board Order 07-0016-PHR.

A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

#5 Stan Kudish

Stan Kudish appeared on his own behalf to request that the Board terminate the suspension of his pharmacist license and impose probation per Board Order 07-0039-PHR. Lisa Yates was present to answer questions concerning Mr. Kudish's participation in the PAPA program. Jim Corrington, PAPA counselor, was present to answer questions concerning Mr. Kudish's progress in the program.

President Van Hassel opened the discussion by asking Mr. Kudish to describe the nature of his request. Mr. Kudish stated that he would like to have his license changed from suspension to probation.

President Van Hassel asked Ms. Yates to comment on Mr. Kudish's compliance with the PAPA program. Ms. Yates stated that Mr. Kudish signed his PAPA contract on May 16, 2007. Ms. Yates stated that Mr. Kudish has been with the program for four months. Ms. Yates stated that Mr. Kudish has not met with the steering committee and the committee will be meeting again in October.

President Van Hassel asked Mr. Corrington to comment on Mr. Kudish's progress in the program. Mr. Corrington stated that Mr. Kudish attends group counseling weekly for 90 minutes. Mr. Corrington stated that Mr. Kudish has accepted that his addiction will require lifelong treatment. Mr. Corrington stated that Mr. Kudish's goal is to stay clean and sober. Mr. Corrington stated that Mr. Kudish goes to daily 12 step meetings.

Mr. Van Hassel asked Mr. Kudish what has changed in his life since starting the PAPA program. Mr. Kudish stated that his life has changed. Mr. Kudish stated that he spent 30 days in an extensive inpatient treatment program. Mr. Kudish stated that he is working the 12 steps and has a sponsor that helps him work through the steps. Mr. Kudish stated that recently his wife had brain surgery and he managed to get through the ordeal without turning to alcohol or drugs.

Mr. Haiber stated that he feels Mr. Kudish is making progress, but he would like to see a longer history of PAPA results.

Mr. Dutcher stated that he is hesitant to remove the suspension because there is no history of compliance.

Dr. Smidt noted that the quantities of medication taken from the pharmacy were extreme. Dr. Smidt asked Mr. Kudish if the medications were for his personal use or did he sell the medications.

Mr. Kudish replied that the medications were taken over a three year period and he used the medication personally. Mr. Kudish stated that he did not lie about the diversion and has paid restitution to his past employer.

Dr. Smidt stated that he feels that Mr. Kudish has been in the program for a short period of time and there is no history for the Board to review.

Mr. Kudish stated that the Board order stated that the suspension could be for as little as 6 months and his suspension actually became effective on January 1, 2007.

Dr. Berry stated that Mr. Kudish has not met with the steering committee and would like to wait until he meets with the steering committee to hear the steering committee recommendations.

Ms. Yates stated that the steering committee would be meeting in October.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed to deny the request by Mr. Kudish to terminate the suspension imposed by Board Order 07-0039-PHR. A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

Mr. Van Hassel told Mr. Kudish that the Board is denying his request today. Mr. Van Hassel told Mr. Kudish to continue on his road to recovery. Mr. Van Hassel told Mr. Kudish that he could appear before the Board again at a future date and ask that the suspension be removed.

#6 James Green

James Green appeared on his own behalf to request that the Board issue him an intern license. Lisa Yates was present to answer questions concerning Mr. Green's participation in the PAPA program.

President Van Hassel opened the discussion by asking Mr. Green to describe the nature of his request. Mr. Green stated that he is requesting a license for internship as suggested by the Board at the July meeting.

Mr. Van Hassel asked Ms. Yates if Mr. Green is compliant with his PAPA contract. Ms. Yates replied that he is compliant. Ms. Yates stated that his counselor is in agreement with Mr. Green receiving his license.

Mr. McAllister stated that he read through the minutes and believes that the Board was talking about reinstating his pharmacist license with restrictions and not issuing an intern license.

Mr. Wand stated that on pages 191 and 192 of the Board Book it was discussed that Mr. Green would need to make application for an intern license at a future meeting.

Ms. Campbell stated that there are several possibilities that the Board could entertain. Ms. Campbell stated that if Mr. Green would like to make application for an intern license and meets the qualifications that would be a possibility. Ms. Campbell stated that the other possibility would be a reinstatement of his pharmacist license with the restrictions that his practice would be limited to the scope of practice of an intern. This would be done through a consent agreement.

Mr. Van Hassel stated that the Board at this time then could consider offering Mr. Green a consent agreement reinstating his pharmacist license with practice restrictions.

Ms. Campbell stated that if the Board would like to authorize her to negotiate a consent agreement with Mr. Green reinstating his pharmacist license she could negotiate the consent agreement and bring the consent agreement back to the Board at the November meeting.

Mr. McAllister stated that he would like to request that the consent agreement state that Mr. Green must be current on all CE requirements and he must have letters of recommendation prior to ending the intern period.

Ms. Campbell asked how many letters of recommendation would the Board Members like Mr. Green to submit to the Board. Mr. McAllister stated one letter from his immediate supervisor would be sufficient.

Ms. Campbell asked about the terms of probation. Ms. Campbell asked how long his license should be limited to intern status. Mr. McAllister stated six months.

Mr. Van Hassel stated that he would like Mr. Green to appear before the Board once the 6 months of restricted practice is completed.

On motion by Mr. McAllister and Dr. Berry, the Board unanimously agreed to allow Mr. Green to negotiate a contract with the Board Attorney to reinstate his license with the stated restrictions of internship hours and CE completion and appear before the Board again when the restrictions are complete.

A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

#6 Kevin Denick

Kevin Denick appeared on his own behalf to request that the Board amend Board Order 07-0030-PHR which requires him to have a supervising pharmacist on site when he is engaged in the practice of pharmacy.

President Van Hassel opened the discussion by asking Mr. Denick to describe the nature of his request. Mr. Denick stated that he would like to have the restriction on his license removed that requires a supervising pharmacist be on site. Mr. Denick stated that when his license was

reinstated last November the Board placed the restriction on his license that another pharmacist must be present when he works. Mr. Denick stated that at first it seemed like a good idea, but has caused real difficulties in his opportunities to find employment.

Mr. Denick stated that it took him five months to find employment. Mr. Denick stated that after five months his former employer offered him a position. The position was an intern type position at lower wages.

Mr. Denick stated that he has recently found a regular staff position as a pharmacist with CVS in Bullhead City. Mr. Denick stated that it is difficult because the trip is four hours from his home and he is away from his home the majority of the week.

Mr. Denick stated that it is not the Board's problem to ensure that he can find employment. Mr. Denick stated that in practice that restriction has been very difficult.

Mr. Van Hassel asked Mr. Denick if he remembers why the Board placed that restriction on his license. Mr. Denick stated that the restriction was placed on his license for foolish decisions that he made in the past. Mr. Denick stated that he ensures the Board that he would not do anything that would jeopardize his license.

Dr. Smidt asked Mr. Denick if the probationary period would still remain in effect. Mr. Denick stated that he has no issue with the probationary period, but it is the employment restriction that is difficult.

Mr. Dutcher stated that he feels the Board should not change the consent order because it would open the floodgates for people requesting changes to their consent agreements.

Mr. Haiber stated that he agrees that the Board should not change the consent order. Mr. Haiber stated that he feels that there is no reason to remove a component of the consent agreement that was agreed upon initially by all parties.

Dr. Smidt asked Mr. Denick if he applied at multiple places or did he only apply for retail positions.

Mr. Denick stated that he applied for all types of positions. Mr. Denick stated that he applied to all the mail order pharmacies in town and all the hospitals in town because there was always another pharmacist present at these sites. Mr. Denick stated that he never received a response from any of the pharmacies. Mr. Denick stated that he applied to home health care pharmacies, but was not considered because he would be required to work a weekend rotation and he could not work alone. Mr. Denick stated that he applied everywhere and there was no preference involved because at that time he was broke and was experiencing financial issues.

Mr. McAllister stated that the Board's job is to protect the public. Mr. McAllister stated that the Board gave the individual his license back to practice and the Board is not responsible if they cannot find work.

On motion by Mr. Dutcher and Mr. Haiber, the Board denied Mr. Denick's request to remove Item A from his consent agreement which states that the respondent shall not engage in the practice of pharmacy without having a supervising pharmacist on site.

A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – nay, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

#7 Gloria Silmone

Gloria Silmone appeared on her own behalf to request to take the NAPLEX exam for the fourth time.

President Van Hassel opened the discussion by asking Ms. Silmone to describe the nature of her request. Ms. Silmone stated that she is asking the Board permission to take the NAPLEX exam again.

Mr. Van Hassel asked Ms. Silmone how many times she has taken the NAPLEX exam. Ms. Silmone stated that she has taken the exam three times.

Mr. Van Hassel asked Ms. Silmone about the scores on the exams. Ms. Silmone stated that her scores are very low.

Mr. Van Hassel asked Ms. Silmone if she has done anything to prepare for taking the exam a fourth time. Ms. Silmone stated that she is currently taking the Morris-Cody review course.

Mr. Van Hassel asked Ms. Silmone if the review course is helping her prepare for taking the exam another time. Ms. Silmone replied yes.

Mr. McAllister asked Ms. Silmone if she is currently working as an intern. Ms. Silmone replied that she is not currently working as an intern.

Mr. McAllister asked Ms. Silmone if she has ever worked as an intern. Ms. Silmone stated that she had worked as an intern for five years.

Mr. Haiber asked Ms. Silmone if 2005 was the first time that she took the exam. Ms. Silmone stated yes.

Mr. Haiber stated that Ms. Silmone stated that she graduated from pharmacy school 12 years ago and he was wondering why she did not take the exam prior to 2005. Ms. Silmone stated that she had medical issues during that time.

Mr. Haiber asked Ms. Silmone if she has passed the MPJE exam. Ms. Silmone stated that she has just passed the MPJE exam.

Mr. Wand asked Ms. Silmone if the one score she received was a 2. Ms. Silmone replied yes.

Mr. Wand asked if she left the exam without completing the exam. Ms. Silmone replied no, but she believes that there was some problem with the computer.

Mr. Dutcher asked if there is a point where the Board would deny a request to take the exam an additional time. Mr. Wand stated that after the third time the Board would need to approve each additional request to take the exam. Mr. Wand stated that there have been approvals to take the exam for a fifth time and even one request approved to take the exam for a sixth time.

Mr. Van Hassel stated that in most cases when the Board approves the request the individual has shown improvement. Mr. Van Hassel stated that in this case the scores are extremely low and this test measures the minimum competencies to be a pharmacist.

Mr. McAllister stated in most cases the individual progresses and this is not apparent in this case.

Mr. Haiber stated that the scores are going downward.

Mr. Haiber asked Ms. Silmone if she took any review course prior to taking the exam in 2005. Ms. Silmone stated that she took the Morris-Cody review course prior to taking the exam the first time in 2005.

Mr. Van Hassel asked Ms. Silmone where and when she attended pharmacy school. Ms. Silmone stated that she attended school in the Philippines and that was 12 years ago.

Dr. Smidt asked Ms. Silmone if she is working as a technician. Ms. Silmone stated that she applied for a pharmacy technician trainee license last month and is looking for employment.

Dr. Smidt stated that his suggestion would be to have her work as a pharmacy technician. Dr. Smidt stated that this would show her commitment to the profession. Dr. Smidt suggested that Ms. Silmone work and take extra courses to help her prepare for the exam.

On motion by Mr. McAllister and Dr. Smidt, the Board unanimously agreed to deny Ms. Silmone's request to take the NAPLEX exam for the fourth time.

A roll call vote was taken. (Mr. McAllister – aye, Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

Mr. Van Hassel told Ms. Silmone to begin working as a technician. Mr. Van Hassel suggested that Ms. Silmone may want to take the exam to become a certified technician. Mr. Van Hassel also suggested that Ms. Silmone continue with the Morris-Cody course and when she returns to the Board to ask to take the exam again that she is prepared to take and pass the exam.

AGENDA ITEM 8 – License Applications Requiring Board Review

#1 John Joseph Riccardi

John Joseph Riccardi appeared on his own behalf to request to proceed with reciprocity.

President Van Hassel opened the discussion by asking Mr. Riccardi to describe the nature of his request.

Mr. Riccardi stated that he is requesting to reciprocate his pharmacist license from Washington DC where he obtained his original licensure. Mr. Riccardi stated that he was asked to appear to discuss a prior disciplinary action that occurred in 1992 in Florida.

Mr. Van Hassel asked Mr. Riccardi to briefly describe the disciplinary action. Mr. Riccardi stated that he started working for a company in Florida in 1989. Mr. Riccardi stated that in 1990, the Florida Board of Pharmacy received a complaint concerning the manner in which pharmacy technicians contacted doctor's offices for refill authorizations.

Mr. Riccardi stated that the Board and the Company agreed upon a procedure to allow the technicians to contact the physicians for refills. Mr. Riccardi stated that he became the Managing Pharmacist in 1991. Mr. Riccardi stated that in 1992 there was another complaint that stated that a technician had not followed the procedure. Mr. Riccardi stated that the Board initially brought action against the company and then brought action against him as the managing pharmacist. Mr. Riccardi stated that in 1994 he was offered a Letter of Guidance.

Mr. Riccardi stated that he was required to complete CE units and pay administrative costs. Mr. Riccardi stated that this was the only incident that has occurred during his 20 year pharmacy career.

Mr. Haiber asked if this was a disciplinary action. Mr. Riccardi stated that his license was never restricted in anyway.

Mr. Van Hassel asked if he was aware of the process. Mr. Riccardi stated that the process was being followed. Mr. Riccardi stated that a physician complained because he thought that he was speaking to a pharmacist and not a technician because the technician had not identified himself as a technician.

On motion by Mr. McAllister and Mr. Haiber, the Board unanimously approved the request by Mr. Riccardi to proceed with reciprocity.

#2 Frank Kolovrat, Jr.

President Van Hassel recused himself from participating in the review, discussion, and proposed action concerning this case. The meeting was turned over to Vice President, Zina Berry, to conduct the discussion of this case.

Frank Kolovrat, Jr. appeared on his own behalf to request to proceed with reciprocity.

Vice President Berry opened the discussion by asking Mr. Kolovrat to describe the nature of his request.

Mr. Kolovrat stated that he is present today to request to proceed with reciprocity. Mr. Kolovrat stated that in 1998 he had just graduated as a Physician Assistant. Mr. Kolovrat stated that he

met an orthopedic surgeon that asked him to shadow him at his office until he was able to take his exam in six months. Mr. Kolovrat stated that he agreed to shadow the doctor. Mr. Kolovrat stated that shortly after starting at the office, the doctor asked him to assist him during surgery. Mr. Kolovrat stated that he declined. Mr. Kolovrat stated that when he declined the doctor stated that he had influence with the Medical Board and he would see that he never practiced. Mr. Kolovrat stated that he believes that the doctor made false accusations to the Board. Mr. Kolovrat stated as a result his application to be a Physician Assistant in Ohio was permanently denied.

Mr. Kolovrat stated that seven years ago when he filled out a renewal form for his Physician Assistant License in Pennsylvania he checked the box that stated that he had not had a license revoked or suspended in any other state. Mr. Kolovrat stated that he misread the question and thought that they meant in Pennsylvania. Mr. Kolovrat stated that he had sent a letter to the other Boards where he was licensed as a Physician Assistant after Ohio had denied his application.

Dr. Berry asked Mr. Kolovrat if he is practicing as a pharmacist. Mr. Kolovrat stated that he has an active license in Florida.

Dr. Berry asked if it was only one application or two applications that he filled out incorrectly. Mr. Kolovrat stated that Michigan's action was a result of notifying them about the Ohio action. Mr. Kolovrat stated that Florida did not take any action. Mr. Kolovrat stated that in Illinois he met with an investigator and they adopted the same action as Michigan.

Mr. Dutcher asked Mr. Kolovrat if he is still licensed as a Physician Assistant. Mr. Kolovrat stated that he has let his license expire.

Mr. McAllister asked Mr. Kolovrat if he has a Pharmacist license in South Carolina. Mr. Kolovrat stated that he was going to score transfer to South Carolina, but at that time South Carolina would not allow reciprocity with Florida.

On motion by Mr. Dutcher and Dr. Smidt, the Board unanimously agreed to approve the request by Mr. Kolovrat to proceed with reciprocity.

#3 Glen Pierson

Glen Pierson appeared on his own behalf to request to proceed with reciprocity.

President Van Hassel opened the discussion by asking Mr. Pierson to describe the nature of his request.

Mr. Pierson stated that he is requesting to reciprocate his pharmacist license from Washington where he had been previously disciplined by the Board.

Mr. Van Hassel asked Mr. Pierson to briefly describe the disciplinary action. Mr. Pierson stated that he was working in a small community pharmacy with no available help. Mr. Pierson stated that he was told by his employer that an Intern was hired to assist him in the pharmacy. Mr.

Pierson stated that when the Intern arrived they discussed his schooling and licensure. Mr. Pierson stated that unfortunately he overlooked the fact that the Intern did not produce a copy of his Intern license. Mr. Pierson stated that as a Preceptor he allowed him to work without producing an Intern license.

Mr. Van Hassel asked Mr. Pierson if he thought the Intern was licensed. Mr. Pierson stated that his employer told him that the Intern had graduated from a school in Missouri and that he was an Intern. Mr. Pierson stated that as a Pharmacy Manager and Preceptor it was his responsibility to ensure that everyone in the pharmacy was licensed and he should have made the Intern produce his Intern license.

Mr. Van Hassel asked Mr. Pierson if this is the only action taken against his license. Mr. Pierson replied yes.

Dr. Smidt asked Mr. Pierson if the Intern had business cards that stated he was a pharmacist. Mr. Pierson stated that there were cards in a drawer that the Intern had received from another recruiter, but the cards were never displayed.

Dr. Smidt asked Mr. Pierson if he ever left the Intern in the pharmacy alone and allowed him to act as a pharmacist. Mr. Pierson stated that he was never left alone in the pharmacy.

Dr. Berry asked Mr. Pierson if he allowed the Intern to work for over a year without producing his license. Mr. Pierson stated that the Intern did work for him for a year without a license and eventually was granted an Intern license in Washington.

Mr. Dutcher asked if the Board sanctioned the Intern or the Employer. Mr. Pierson stated that he was the only one sanctioned.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously agreed to approve the request by Mr. Pierson to proceed with reciprocity.

#4 Jeanmarie Hazard

Jeanmarie Hazard appeared on her own behalf to request that her revoked pharmacist license be reinstated. Lisa Yates from the PAPA program was also present.

President Van Hassel opened the discussion by asking Ms. Hazard to describe the nature of her request.

Ms. Hazard stated that she is requesting that her revoked pharmacist license be reinstated.

President Van Hassel asked Ms. Yates if Ms. Hazard is compliant with her PAPA requirements. Ms. Yates stated that Ms. Hazard has been compliant with her PAPA contract. Ms. Yates stated that Ms. Hazard signed a new 5-year PAPA contract in April of 2007.

Mr. Van Hassel asked Ms. Hazard to give him an overview of her PAPA counseling sessions and meetings the last several months. Ms. Hazard stated that she has participated in the meetings

actively. Ms. Hazard stated that the meetings are about the issues that they went through and the gratitude of where they are today. Ms. Hazard stated that they talk about recovery.

Mr. Van Hassel asked Ms. Hazard how many meetings she has attended in the last two weeks. Ms. Hazard stated that she has been to eight required meetings.

Mr. Van Hassel asked Ms. Hazard to convince the Board that there has been a change in her life. Ms. Hazard stated that she has been sober for 19 months and she believes in herself. Ms. Hazard stated that she goes to work everyday. Ms. Hazard stated that she mows lawns for a small lawn company.

Mr. Dutcher asked Ms. Hazard to convince the Board why her license should be reinstated. Ms. Hazard stated that this means everything to her. Ms. Hazard stated that she loves being a pharmacist. Ms. Hazard stated that she would like to work as a pharmacist because she feels she has a lot to contribute as a pharmacist. Ms. Hazard stated that she would never do the same things again. Ms. Hazard stated that she cannot guarantee she will be sober in the future, but she can guarantee that she has been sober for the last 19 months and it is a day to day issue.

Mr. Dutcher asked Ms. Hazard where she is working. Ms. Hazard stated that she is working for a small lawn company mowing lawns.

Mr. Van Hassel asked Ms. Hazard if she has completed any CE units in the last 19 months. Ms. Hazard stated that she has not completed many units. Ms. Hazard asked how many units of CE she would need to bring her license current. Mr. Wand replied that she would need 30 CE units from 2005 to 2007.

Dr. Smidt asked Ms. Hazard what activities she has participated in to show that pharmacy is important in her life. Ms. Hazard replied that she had completed some CE units.

Ms. Hazard stated that at her job there was another employee that had an alcohol problem. Ms. Hazard stated that her boss was going to fire the employee and she asked her boss to allow her to help the employee get into AA. The employer allowed her to help the other employee.

Dr. Smidt asked Ms. Hazard if she has sponsored anybody. Ms. Hazard stated that she has a sponsor and she has sponsored someone for the last nine months. Ms. Hazard stated that she has learned a lot from her sponsee.

Dr. Smidt asked Ms. Hazard why pharmacy is important to her. Ms. Hazard stated that she likes helping people. Ms. Hazard states that she has a talent or aptitude for pharmacy. Ms. Hazard stated that she would like to work in a hospital again.

Dr. Smidt stated that he feels that Ms. Hazard should take steps to re-enter the healthcare field. Dr. Smidt told Ms. Hazard that he feels that she needs to show that she is mentally competent and ready to return to practice.

On motion by Dr. Smidt and Mr. McAllister, the Board unanimously agreed to deny the request by Ms. Hazard to reinstate her pharmacist license.

#5 Jeffrey Hannibal

Jeffrey Hannibal appeared on his own behalf to request that his revoked pharmacist license be reinstated. Lisa Yates was present to answer questions concerning Mr. Hannibal's participation in the PAPA program. Jim Corrington, PAPA counselor, was present to answer questions concerning Mr. Hannibal's progress in the program.

President Van Hassel opened the discussion by asking Mr. Hannibal to describe the nature of his request.

Mr. Hannibal stated that he is requesting that his pharmacist license status be changed from revoked status to probationary status with continuance in the PAPA program.

Mr. Van Hassel asked Ms. Yates about Mr. Hannibal's compliance with his PAPA contract. Ms. Yates replied that Mr. Hannibal is continuing to be compliant.

Mr. Van Hassel asked Mr. Corrington about Mr. Hannibal's progress in the PAPA program. Mr. Corrington stated that they meet weekly in group sessions. Mr. Corrington stated that he has pressed Mr. Hannibal very hard over the last six months. Mr. Corrington states that he emphasizes the need for Mr. Hannibal to stay sober. Mr. Corrington stated that Mr. Hannibal has accepted responsibility for his disease and plans to stay clean and sober. Mr. Corrington stated that he has probably pushed Mr. Hannibal harder than some members of the PAPA group because of his past history.

Mr. Wand stated at the last Board meeting Mr. Hannibal attended the Board had discussed a lifetime PAPA contract.

Mr. Hannibal stated that he would have no objection to a lifetime contract. Mr. Hannibal stated that this is a lifetime process. Mr. Hannibal stated that this is a learning process. Mr. Hannibal stated that he plans to be in recovery the rest of his life.

Mr. Van Hassel asked Mr. Hannibal to explain to the Board how the Board can be certain that the same problems would not occur again when he is placed back in the same environment.

Mr. Hannibal stated that he had participated in a five year contract previously. Mr. Hannibal stated that his attitude was that it was a misunderstanding. Mr. Hannibal stated that by not working an intensive program he reserved the right that he could drink like a normal human being. Mr. Hannibal stated that is a typical description of alcoholism. Mr. Hannibal stated that attitude went on for years. Mr. Hannibal stated that it took a level of pain and destruction in his life to come to the point that he had to give up because it was killing him physically and mentally. Mr. Hannibal stated that he is working a rigid program of recovery.

Mr. Hannibal stated that he attends 5 to 7 AA meetings a week. Mr. Hannibal stated that he has a sponsee. Mr. Hannibal stated that he speaks during the meetings and also chairs meetings. Mr. Hannibal stated that he drives from Prescott every Tuesday to attend the PAPA group meeting and on Wednesday to attend marriage counseling.

Mr. Hannibal stated that on a daily basis he looks at his own behavior and what he wants to change about his behavior. Mr. Hannibal stated that he has always been a sneaky person and it is now an outing process and telling on himself and changing what needs to be changed.

Mr. Corrington stated that Mr. Hannibal's level of honesty of what has happened in the past is surprising. Mr. Corrington stated that Mr. Hannibal is willing to be honest about what has happened in the past.

Mr. Hannibal stated that he does not want to be just another PAPA member. Mr. Hannibal stated that he would like to help other pharmacists when they enter the PAPA program.

Dr. Smidt asked Mr. Hannibal how close he is to the profession. Mr. Hannibal stated that he enjoys pharmacy. Mr. Hannibal stated that he has completed CE units that he has submitted to the Board. Mr. Hannibal stated that he maintains his subscription to Pharmacy Times.

On motion by Mr. McAllister and Mr. Haiber, the Board agreed to reinstate Mr. Hannibal's license with the stipulation that he sign a new 5- year PAPA contract. There was one nay vote by Mr. Van Hassel.

#6 Randy Savage

Randy Savage appeared on her own behalf to request that his revoked Pharmacy Technician license be reinstated.

President Van Hassel opened the discussion by asking Mr. Savage to describe the nature of his request.

Mr. Savage stated that he would like to have his pharmacy technician license reinstated. Mr. Savage stated that he is not making any excuses for what he did that caused the loss of his Pharmacy Technician license.

Mr. Savage stated that he called in a prescription for the drug Vicodin illegally. Mr. Savage stated that his wife had recently had a child and also has a rod in her back from a previous accident. Mr. Savage stated that his wife fell down the steps and he took her to the Emergency Room. Mr. Savage stated that it was determined that one of the screws from the rod had pushed into a vertebrae. Mr. Savage stated that they would not prescribe any medication because his wife was under the care of her OB doctor. Mr. Savage stated that they tried to reach her OB doctor and she was on vacation. Mr. Savage stated that his wife was still in pain, so he called a prescription for Vicodin into the local pharmacy. Mr. Savage stated that his wife went into pick up the prescription and when she came out of the store the plain clothes police stopped her. Mr. Savage stated that he told the police that he called in the prescription and surrendered to the

police. Mr. Savage stated that he was released on his own recognizance. Mr. Savage stated that he has embarrassed his family and the profession.

Mr. Savage stated that he is proud of his profession. Mr. Savage stated that he was employee of the year at the hospital and had received numerous awards from the hospital. Mr. Savage stated as a result of his arrest he was terminated. Mr. Savage stated that he was charged with a Class 6 felony. Mr. Savage stated that he voluntarily submitted to drug testing and has completed 16 hours of substance abuse education.

Mr. Savage stated that he made a moral mistake. Mr. Savage stated that the profession requires respect even from a Pharmacy Technician. Mr. Savage stated that he has left down his family and profession.

Dr. Smidt asked Mr. Savage how he obtained the doctor's DEA number. Mr. Savage stated that he called Walgreens and told them that he was a technician and asked the technician for the DEA number of the doctor and was given the number.

Dr. Smidt asked why he sent his wife into the pharmacy for the prescription. Mr. Savage said due to her pain it is less painful for his wife to walk then sit.

Dr. Smidt asked why the doctor would not give them a prescription at the ER. Mr. Savage stated that because she was nursing the ER doctor would not give her a prescription without approval from her OB doctor.

Dr. Smidt asked Mr. Savage if he is working in a pharmacy. Mr. Savage said no.

Dr. Smidt asked Mr. Savage if he has completed any CE units. Mr. Savage stated that he has taught the pharmacy technician course at the College of Allied Health.

Mr. Dutcher asked Mr. Savage why he did not show up when he received the Notice of Hearing. Mr. Savage stated that he knew he made a mistake and knew his license would be revoked. Mr. Savage stated that he felt it would have been disrespectful to show up and ask to maintain his license at that time.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously denied the request by Mr. Savage to reinstate his Pharmacy Technician license.

AGENDA ITEM 9- Omnicare- Request to establish facility specific formularies adopting Therapeutic interchange protocols

The following individuals from Omnicare were present: David Mayl, Consultant Pharmacist, Deanne Ryan, Clinical Coordinator for Omnicare Arizona, and Edward Jergens, Director of Medicare Part D for Omnicare Corporate.

President Van Hassel opened the discussion by asking the representatives why they were appearing in front of the Board.

Mr. Mayl stated that they are requesting authorization to enable long term care facilities to establish formularies specific to each individual facility and physician.

Mr. Mayl stated that each physician could review the formulary developed by the facility and authorize therapeutic interchange for each product and sign off for each product individually.

Mr. Mayl stated that he believes that this will allow freedom for the physician to control the direction of care of the patient.

Mr. Mayl stated that there is a problem for the long term care facilities in Arizona. Mr. Mayl stated that the Arizona Long Term Care Division of the Board of Health requires that residents receive medication in a timely manner. Mr. Mayl stated that the problem is with third party payors establishing their formularies. If the product is not authorized on the formulary, then the request for payment for that particular medication must be reviewed and the patient does not receive their medication in a timely manner as required by the Department of Health. Mr. Mayl stated that by having a formulary where the therapeutic interchange is authorized this would allow the substitution to take place and the patient would receive their medication on a timely basis.

Mr. Mayl stated that what occurs today is that if the patient is transferred from a hospital or other long term care facility the medication orders are called into the attending physician at the long term care facility. The nurse at the long term care facility would read the orders to the physician and the physician will usually continue those orders until he comes to the facility to see the patient which could be up to 72 hours. The nurse would then reduce the orders to writing and it is expected at this point that the patient would receive their medications in a timely fashion.

Mr. Mayl stated that when a non-formulary product is submitted to the PBM for payment, the pharmacy would then e-mail back to the nursing home indicating that the medication is not covered. Mr. Mayl stated that the nursing home has the option of paying for the medication. Mr. Mayl stated that if the physician still wants to prescribe the non-formulary product, then the physician must fill out a form and send to the PBM for review. Mr. Mayl stated that it could take up to 3 or 4 days for the review to take place and during this time the patient would not be receiving the medication and would be putting the facility in jeopardy because the patient is not receiving their medication in a timely fashion.

Mr. Mayl stated that their suggestion is that each facility develops a formulary and the recommended formulary is given to all medical providers and each doctor signs off on the formulary individually. Mr. Mayl stated that the sign off sheet from the doctor could be maintained at the pharmacy and at the nursing facility. Mr. Mayl stated that they feel this is similar to the formulary of an acute care situation in the hospital.

Dr. Smidt asked how one formulary is going to match up with most insurance plans. Mr. Jergens stated that he has developed a spread sheet of all Medicare Part D formularies. Mr. Jergens stated that the medications on the suggested formulary are covered by Medicare Part D.

Mr. Jergens stated that the formulary is the facility formulary and not Omnicare's formulary. Mr. Jergens stated that the suggested medications are preferred agents.

Dr. Smidt asked how many facilities have adopted the suggested formulary. Mr. Jergens replied that most of the facilities have adopted the suggested formulary.

Dr. Smidt asked if the formulary is based off of reimbursement rate. Mr. Jergens stated that the medication has to be effective for the elderly patient. Mr. Jergens stated that they would recommend a higher cost agent if the medication is better for the elderly.

Dr. Smidt asked how does the patient benefit from receiving medication approved by this formulary. Mr. Jergens stated that there has to be at least a \$5 or 5% cost saving to the pharmacy payor.

Dr. Smidt asked who explains to the patient that their medication has been changed by a physician who has not seen the patient and that change is based on a formulary recommendation. Mr. Jergens stated that it is explained to the long term care responsible party. Ms. Ryan stated that upon admission the power of attorney for the patient signs a consent form for treatment and the receiving of prescriptions.

Mr. Mayl stated that the goal is to get the medication to the patient in a timely fashion and this formulary would allow the patient to get the medication in a timely fashion. Mr. Mayl stated that the formulary is consistent with the lowest priced medications in the category.

Dr. Smidt asked if there is anyway to know if the physician really wants this process in place. Ms. Ryan stated that last year they sent out physician authorization letters and at least 90% of the physicians expressed interest in having the formularies.

Dr. Smidt stated that he has an issue with the patient not receiving medication until the PBM approves the product. Mr. Jergens stated that by instituting the suggested formulary the doctor would know what products are covered.

Mr. Van Hassel stated that there is a major difference between hospitals and long term care facilities. Mr. Van Hassel stated that there is a defined group of physicians in a hospital that must abide by the bylaws of the hospital which would include abiding by the formulary requirements of the hospital which have been approved by the P & T committee.

Mr. Jergens stated that in their operating system they have the capability of indicating if a physician wants to abide by the facility formulary.

Mr. Dutcher stated that the law does allow long term care facilities to establish formularies.

Mr. Dutcher asked if what Omnicare is really asking for is the authorization to make therapeutic substitutions. Ms. Ryan replied yes.

Mr. Dutcher stated that the statutes only allow therapeutic substitution by hospitals and institutions and he does not believe that long term care facilities fall under this category.

Mr. McAllister stated that long term facilities do not have organized medical staff and there are patients in the facility that are not serviced by Omnicare. Mr. McAllister stated that he feels that they need to work with ASCP to create new rules. Mr. McAllister stated at this time they would need to contact the physician for therapeutic substitution.

Ms. Campbell stated that the power of the Board is limited by statute and the statutes do not allow for therapeutic substitution. Ms. Campbell stated that the Board does not have the power to give advisory opinions.

Mr. Van Hassel stated at this time the Board could not take any actions concerning Omnicare's request due to statutory restrictions.

AGENDA ITEM 10 – Update on University of Arizona College of Pharmacy – Distance Learning Program

President Van Hassel opened the discussion by stating that representatives from the University of Arizona College of Pharmacy were present to provide an update on the opening of the Phoenix campus.

Mr. Van Hassel asked Mr. Wand to introduce the representatives. Mr. Wand introduced Lyle Bootman, Dean of the College of Pharmacy, Kevin Boesen, Experiential Education Director, and David Burks, Director of Development.

Mr. Van Hassel stated that a year ago, the Board voted to approve funds to assist the College of Pharmacy in developing their Phoenix campus. Mr. Van Hassel stated that the funds were approved to be transferred from the Pharmacy Fund. Mr. Van Hassel presented the first payment of \$150,000 to Dean Bootman.

Dean Bootman thanked the Board for their contribution and continued support.

Dean Bootman gave a brief overview of the development of the Phoenix Biomedical Campus located at 5th Street and Van Buren in Phoenix. The Pharmacy school will be located on the first floor of the Genomic Research Institute.

Dean Bootman introduced Dr. Jamie Joy. Dr. Joy is the Director of Experiential Education for the Phoenix Campus. Dean Bootman stated that there will be 30 PharmD students assigned to the Phoenix Campus.

Dean Bootman stated that Mr. Burks would be handling administrative and financial affairs for the campus. Mr. Burks is currently working with the city planners concerning the development of the campus.

Dean Bootman stated that he and Mr. Boesen would be spending about half of their time at the Phoenix campus for the next year.

Dean Bootman stated that the contribution would help with the establishment of a Telemedicine center on the campus. Dean Bootman stated that they will have streaming video that will allow pharmacists and doctors at approximately forty different sites to be in the same conference at the same time.

Dean Bootman stated that they have other contributors that are helping to establish endowments to the college to attract the best scholars and faculty to the College.

Dean Bootman again thanked the Board for their contribution to the College of Pharmacy.

AGENDA ITEM 11 – Reports

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of thirty-nine (39) pharmacists in the PAPA program. Since the last report on May 9, 2007 there have been three (3) new participants come into the program, three (3) participants that have completed their contract, and three (3) terminations of contracts.

Ms. Yates thanked the Board for the extra funding. Ms. Yates stated that the funding would help extend services to the technicians. Ms. Yates stated that the extra funding would allow PAPA to provide more CE programs.

The Board Members discussed with Ms. Yates concerns about several PAPA participants.

The Board requested that Ms. Yates submit to the Board a copy of the policies that PAPA uses to determine when the Board is notified of a participant's failure to uphold their PAPA contract.

AGENDA ITEM 12 – Conferences

Complaint #3295

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Danny Reddoch (Pharmacist), Susan DelMonico (Director of Regulatory Compliance for CVS), Paul Wachter (Director of Pharmacy Operations for CVS), and Roger Morris (Legal Counsel for CVS).

Compliance Officer Ed Hunter gave a brief overview of the complaint. Mr. Hunter stated that the patient's prescription for U-500 Regular Insulin was filled with Humulin R U-100 Insulin. The prescription was entered incorrectly by the Pharmacy Technician and the error was not caught by the pharmacist at verification or during counseling. The error was discovered when

the doctor phoned in a new prescription with a higher dose for the U-500 insulin. The patient used the incorrect insulin for one month.

President Van Hassel asked the participants to address the complaint.

Mr. Morris stated that counseling was not offered because the patient had Humulin R U-100 insulin previously, therefore counseling was not required.

Mr. Reddoch stated that he reviewed the prescription and he did verify the prescription incorrectly. Mr. Reddoch stated that he did not notice the 500 and saw it as 100. Mr. Reddoch stated that he had focused his attention on the directions.

Mr. Van Hassel asked if the technician would need to scroll for the product when he entered the prescription.

Mr. Reddoch stated the U-500 insulin would appear when scrolling for the drug. Mr. Reddoch stated that the insulins are listed under Humulin or Novolin and then the technician would need to scroll for the correct insulin.

Mr. Van Hassel asked if the technician picked the wrong drug or was it a scrolling issue.

Mr. Reddoch stated that he is assuming that the technician also viewed the prescription as U-100. Mr. Reddoch stated that he is aware that there is a U-500 Insulin, but he had never dispensed the product previously. Mr. Reddoch stated that he believes that the technician was not aware that there is a U-500 Insulin.

Mr. Reddoch stated that when he verifies a prescription for Insulin he usually focuses his attention on the type of insulin and the directions because that is where the technicians usually make an error in entering the prescription. Mr. Reddoch stated that he did not focus on the strength.

Mr. Dutcher asked Mr. Reddoch to describe the verification process. Mr. Reddoch stated that the prescription is scanned and when he receives the prescription he scans the barcode that goes with the patient information.

Mr. Dutcher suggested that Mr. Reddoch may want to read the prescription and label out loud. Mr. Dutcher suggested hearing the difference may alert him to the error.

Mr. Reddoch stated since this error when he receives an insulin prescription he always looks at the strength. Mr. Reddoch stated that when he works with technicians and interns he points out the different insulin strengths to them.

Mr. Reddoch stated that he has completed 4 hours of CE on medication errors. Mr. Reddoch stated that he wants to prevent this type of error from occurring in the future.

Mr. Reddoch stated that he has become more systematic in checking prescriptions. Mr. Reddoch stated that he does not want to hurt anyone. Mr. Reddoch stated that he failed the patient, the doctor, and the Board that protects the public.

Mr. Wand asked Mr. Reddoch if there is a screen where he counsels the patient. Mr. Reddoch stated that there is a screen in the proximity of the counseling area, but not close to where the pharmacist counsels the patient. Mr. Reddoch stated that it could have made a difference.

Mr. Wachter stated that there are screens at the check out area and they are called look-up screens.

Mr. Wand asked if the screens are used routinely. Mr. Wachter stated that he believes that they are not routinely used.

Mr. Haiber asked Mr. Reddoch if he believes the workload contributed to the error. Mr. Reddoch stated that when a pharmacy is busy the errors seem to increase. Mr. Reddoch stated that this error occurred on a Monday in December which is the busiest time of the year.

Dr. Smidt stated that the Arizona Pharmacy Alliance offers a pharmacy quality commitment program and he was wondering if the Board could require Mr. Reddoch to complete the program.

Ms. Campbell stated that if the Board wanted Mr. Reddoch to complete the program then he would have to sign a consent agreement stating that he would complete the program.

Mr. McAllister stated that he feels that Mr. Reddoch has completed CE hours and to ask him to participate in the pharmacy quality commitment program would be excessive.

Mr. Van Hassel stated that he feels that Mr. Reddoch has worked on resolving the problem and did complete the four hours of CE without being required to complete the CE by the Board. Mr. Van Hassel noted that the pharmacy quality commitment program is fairly expensive.

On motion by Dr. Smidt and Mr. Haiber, the Board unanimously agreed to issue an advisory letter to Mr. Reddoch.

Complaint #3349

Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning this case.

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Judy Blaskie (Pharmacist), Marisela Ramirez (Pharmacy Technician Trainee), Richard Zoyhofski (Pharmacy Supervisor), Susan DelMonico (Director of Regulatory Compliance for CVS), and Roger Morris (Legal Counsel for CVS).

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that a prescription for a 6-month old infant for Lasix was filled incorrectly. Mr. Cieslinski stated that the prescription was entered incorrectly and verified incorrectly. The child was given 6 mls twice daily instead of 6 mg (0.6 ml) twice daily. The child was given the incorrect dose for 5 days and was hospitalized.

President Van Hassel asked Ms. Blaskie to address the complaint. Ms. Blaskie stated that she misinterpreted the prescription. Ms. Blaskie stated that she calculated the dose as 0.6 ml and verified the prescription incorrectly. Ms. Blaskie stated that she is sorry for the error.

Mr. Van Hassel asked Ms. Blaskie about the workflow. Ms. Blaskie stated that the technician takes the prescription from the patient and scans the prescription and then enters the prescription. Ms. Blaskie stated that she believes that the technician did ask her to calculate the dose. Ms. Blaskie stated that she did not catch the error when she verified the prescription.

Ms. Blaskie stated that if she had the hard copy in her hand she probably would have caught the error, but she views the image on the screen to verify the prescription.

Mr. Dutcher asked if the system calculates the dose. Mr. Zoyhofski stated that the directions are entered in free-hand in this case.

Mr. Dutcher asked Ms. Blaskie if she knew the patient was an infant. Ms. Blaskie stated that she did know it was an infant.

Mr. Dutcher asked Ms. Blaskie if she went over the directions with the father when he picked up the prescription. Ms. Blaskie stated that Ms. Ramirez interpreted the prescription and spoke with the father. Ms. Blaskie stated that she told Ms. Ramirez to read the label as it was typed as 6 mls twice daily.

Mr. Dutcher asked if that dose seemed excessive. Ms. Blaskie stated that it did seem excessive.

Ms. Blaskie stated that there were numerous things going on in the pharmacy and she realizes that this is not an excuse for the error. Ms. Blaskie stated that their pharmacy had undergone a conversion from Osco to CVS and there were numerous distractions in the pharmacy.

Mr. Dutcher asked Ms. Blaskie what she has learned from the error. Ms. Blaskie replied that she must focus on each prescription and minimize distractions.

Mr. Morris stated that the conversion occurred over a year ago. Mr. Morris stated that the pharmacist was given two weeks of training at a different store. Mr. Morris stated that during the conversion there was extra staff at the stores.

Mr. Van Hassel asked if the computer alerts the pharmacist to dose related problems. Mr. Zoyhofski replied that there would have been a DUR that showed up on the screen.

Mr. Van Hassel stated that he does not understand why she did not stop the prescription when the DUR alert screen appeared. Mr. Van Hassel stated that there were several times that Ms. Blaskie could have corrected the error. Mr. Van Hassel stated that she was asked to calculate the dose, she could have stopped the prescription when the DUR occurred, and during counseling she told the technician to read the label as 6 mls.

Mr. Dutcher asked when does the DUR appear on the computer screen. Mr. Zoyhofski stated that the DUR appears on the final verification screen for the pharmacist. Ms. DelMonico stated that the pharmacist must manually override the DUR.

Dr. Smidt asked Ms. Blaskie if she remembers clearing the DUR. Ms. Blaskie stated that she does not remember clearing the DUR.

Mr. McAllister stated that prescriptions for young children should be double checked because they are an at risk population.

Mr. Zoyhofski stated that the computer does flag geriatric and pediatric patients. Ms. DelMonico stated that they will have an enhancement that will show the picture of a child.

Ms. Blaskie stated that she now works at a mail order pharmacy and has completed 14 hours of CE on medication and safety errors.

On motion by Mr. McAllister and Mr. Dutcher, the Board agreed to issue an advisory letter to Ms. Blaskie. There was one nay vote by Dr. Smidt.

AGENDA ITEM 18 – Review of Workforce Load in Pharmacies

President Van Hassel opened the discussion by stating that Board Members and staff have been approached by pharmacists concerning workload and breaks during the workday. Mr. Van Hassel stated that the Board has decided to look at workforce issues. Mr. Van Hassel stated that the Board has information concerning the North Carolina workforce load regulations.

Mr. Van Hassel stated that this is an issue that the Board would not resolve at this meeting. Mr. Van Hassel stated that during the Call to the Public anyone in the audience can make comments concerning workforce issues.

Mr. McAllister stated that the North Carolina regulations establish workforce requirements based on the number of prescriptions filled. Mr. McAllister stated that the intent is correct, but he feels that it would be difficult to determine how many prescriptions a pharmacist could fill in an hour or workday. Mr. McAllister stated that errors are made in slow and busy pharmacies. Mr. McAllister stated that many pharmacists can handle multiple tasks while other pharmacists cannot handle multiple tasks.

Mr. Dutcher stated that different pharmacists have different abilities and he feels it would be difficult to determine limits. Mr. Dutcher stated that companies should be able to place

pharmacists in an environment where they can handle the volume and should not be punished if they cannot handle a certain volume at a specific pharmacy.

Mr. Van Hassel stated that the Board may want to consider the work environment and the need for lunch breaks and breaks during the day.

Mr. Dutcher stated that work environment regulations would be easier to determine.

Mr. Van Hassel stated that many pharmacists work 14 hour days without a break. Mr. Van Hassel stated that he was told that pharmacists are often exempt employees and the companies are not required to give them a break.

Mr. Wand stated that some pharmacies do close for a lunch break and the Board has had no customer complaints concerning the closure. Mr. Wand stated that many states do have mandated lunch breaks and breaks.

Mr. Haiber stated that it would be difficult to determine an arbitrary number of prescriptions that could be filled on a daily basis. Mr. Haiber stated that mail order pharmacies allow their employees to take a lunch break and breaks during the day. Mr. Haiber stated that the breaks are positively received by the employees.

Mr. Van Hassel stated that the Board Staff can gather information concerning workforce regulations in other states and the Board can review these regulations at a future Board Meeting.

AGENDA ITEM 22 – Call to the Public

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

Mr. Morris stated that labor laws do not require employers to give lunch breaks or breaks unless the worker is of a certain age. Mr. Morris stated that Arizona does not have requirements to offer employees breaks or lunch breaks.

On motion by Mr. Dutcher and Dr. Berry, the Board agreed to recess the meeting until September 12, 2007 at 9:00 A.M.

The meeting recessed at 3:08 P.M.

AGENDA ITEM 1 – Call to Order – September 12, 2007

President Van Hassel convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Tom Van Hassel, Vice President Zina Berry, Chuck Dutcher, Steven Haiber, Dennis McAllister, Paul Sypherd, and Ridge Smidt. The

following staff members were present: Compliance Officers Rich Cieslinski, Chuck Cordell, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

Due to scheduling issues, Mr. McAllister departed the meeting at 10:40 A.M.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

AGENDA ITEM 11 – Reports

Executive Director Report

Mr. Wand opened his discussion by reviewing the annual report. Mr. Wand stated that every year each agency must submit an annual report to the Governor by September 1st.

Mr. Wand stated that there are several pages that he would like to share with the Board Members. Mr. Wand stated that the first page he would like to discuss is the organizational chart. Mr. Wand stated that all positions in the office are uncovered except two positions. Mr. Wand stated that by uncovering the positions he has more flexibility in hiring, firing, and salary determination. Mr. Wand noted that uncovered employees are not subject to the state merit system.

Mr. Wand stated that there were less inspections completed this year than last year, but that is offset by the number of hours that the staff has spent conducting audits and investigations related to the increase in the number of complaints.

Mr. Wand stated that last year there was an extensive amount of time spent inspecting non-retail outlets as a result of a letter from the Governor asking the Board to educate the retailers concerning pseudoephedrine sales.

Mr. Wand stated that the statistics indicate that there has been a decrease in retail pharmacies, a decrease in government pharmacies, an increase in hospital pharmacies, an increase in independent pharmacies, and a slight increase in non-resident pharmacies.

Mr. Wand stated that the annual report is available online on the Board's webpage.

Mr. Wand reviewed the Budget with the Board Members. Mr. Wand stated that the Board still has two large outstanding payments to be paid. Those payments are for the services provided by the Attorney General and the rent. Mr. Wand stated that the rent is not charged monthly. Mr. Wand stated that the rent is swept once a year.

Mr. Wand stated that online renewals would begin on September 15, 2007. Mr. Wand stated that this year a notice was sent to everyone renewing their license or permit instructing them how to

renew online. Mr. Wand stated that this would decrease the amount of work for the office staff. Mr. Wand stated that the Board would be saving money in postage costs.

Mr. Wand stated that no one will be rolled over this year and when someone pays their fees their license or permit status will be updated.

Mr. Wand stated that if more than 30 % of the licensees or permittees renew on line using credit cards then he must make a report to the Government Technology Agency.

Deputy Director Report

Ms. Frush stated during the months of July and August 2007, the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

1. Controlled Substance Overage –7
2. Controlled Substance Shortage – 5
3. Failure to file DEA 106 (Loss of Controlled Substances with Board Office) – 1

Documentation Violations

1. Failure to Document Medical Conditions – 12
2. Failure to have signed technician statements concerning job description, policies & procedures and Board rules - 1
3. Failure to have technician training documentation -1
4. Failure to have a technician policy and procedure manual - 1
5. Failure to maintain counseling documentation - 4

Dispensing Violations

1. Outdated Rx and OTC items in the pharmacy – 4

Pharmacy Violations

1. Wall certificates not posted – 3
2. Renewal Certificates not available -1
3. Excessive Temperature in Pharmacy – 1
4. Failure to report unprofessional conduct – 1

The following areas were noted on the inspection reports for improvement:

1. Filing and retention of Controlled Substance Invoices
2. Documentation of Counseling

The following areas were noted on the inspection reports where pharmacists and technicians are meeting or exceeding standards:

1. Obtaining required prescription information on oral prescriptions

Areas outside the inspection reports that may be of interest:

1. CII prescriptions will be valid for 90 days from the date issued beginning September 19, 2007.
2. Reporting of losses of Controlled Substances should be made within 10 days of loss and if the loss was due to employee theft the employee must be reported to the Board with

supporting documentation.

AzPA Report

Mindy Rasmussen, Executive Director of the Arizona Pharmacy Alliance (AzPA), was present to update the Board concerning the activities of the Alliance.

Ms. Rasmussen stated at the July meeting of the Board of Directors of the Association they decided to add a Managed Care Academy to the Alliance. Ms. Rasmussen stated that Steve Lerch would chair the academy.

Ms. Rasmussen stated that she has submitted a list to Mr. Wand recommending individuals to serve on the quality assurance taskforce.

Ms. Rasmussen stated that she received a letter stating that all Medicaid patients in Arizona that belong to managed care plans would be exempt from the requirement that their prescriptions be written on tamper resistant prescription pads. Ms. Rasmussen stated that they are waiting word from CMS on how to handle Fee for Service patients that are not in managed care plans. Ms. Rasmussen stated that there is legislation being proposed to delay when the provision begins and that the tamper proof prescriptions would only be required for CII prescriptions.

Ms. Rasmussen stated that the Alliance would be offering a CE program at Midwestern University entitled Spanish for Pharmacists.

Ms. Rasmussen stated that the Alliance would be offering CE at regional rallies to update pharmacists on Federal and State legislation.

Ms. Rasmussen stated that the Alliance would be holding a Technician Conference on December 1, 2007.

Ms. Rasmussen stated that the Alliance has been contacted by an employer group who wants to contract with the Pharmacy Network of Arizona to provide medication management to their employees.

AGENDA ITEM 12 – Conferences

Complaint # 3343 – Cindy Solski – Postponed Until November

Complaint # 3371

Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning this case.

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Ronald Glenn (Pharmacist), Whit Morgan (Pharmacy Supervisor), and Ed Reichert (Legal Counsel for Express Scripts).

Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that the complainant received Amitriptyline 100 mg instead of Amitriptyline 10 mg. Ms. Sutcliffe stated that the directions were to take 1 to 3 tablets at bedtime. The patient stated that she took the incorrect dose for 7 days. The patient experienced severe dizziness and nausea and contacted the pharmacy. The pharmacist then discovered that she was given the wrong strength.

President Van Hassel asked Mr. Glenn to address the error. Mr. Glenn stated that he made an error and he is sorry about the error.

President Van Hassel asked Mr. Glenn to describe the workflow process. Mr. Glenn stated that the prescription was entered by a technician and he missed the error when he verified the prescription.

Mr. Van Hassel asked Mr. Glenn if the drugs are close in the drug file when the technician selects the drug.

Mr. Morgan stated that they have made several changes to their drug screen. Mr. Morgan stated that there are asterisks before and after the strength on the Amitriptyline 100 mg to draw attention to the strength. Mr. Morgan stated that they have added a pop-up message to both strengths to confirm the strength at both data entry and verification. Mr. Morgan stated that they have added a high dose trigger to alert the pharmacist.

Mr. Dutcher stated in his reply to the Board Mr. Glenn indicated that he may have been interrupted during the verification process. Mr. Dutcher asked Mr. Glenn what types of interruptions occur during the verification process.

Mr. Glenn stated that he is a mentor and answers questions for technicians and other pharmacists. Mr. Glenn stated that sometimes he may need to get up and go to the other employees desk to answer their question.

Mr. Glenn stated that if he is interrupted he goes back to the beginning of the prescription and starts to review the prescription again.

Mr. Van Hassel asked at what site the prescription was verified. Mr. Glenn stated that the prescription was entered and verified in Albuquerque and filled in Phoenix.

Mr. McAllister stated that the drug and sig need to be evaluated. Mr. McAllister stated that taking 1 to 3 tablets of Amitriptyline 100mg should have been the trigger that the dose was not correct.

Mr. McAllister asked if the label stated 100 mg. Mr. Morgan stated that the label did state 100 mg.

Dr. Sypherd stated that he does not like to see errors. Dr. Sypherd stated that he feels that a fine or probation would be appropriate.

Mr. Reichert stated that Mr. Glenn is a good pharmacist. Mr. Reichert stated that Mr. Glenn made an error because Mr. Glenn thought he say the strength as 10mg. Mr. Reichert stated that he does not feel that Mr. Glenn is a risk to the public and he does not feel that probation or a fine is required.

Dr. Berry stated that this is similar to the case yesterday where the pharmacist picked the wrong medication based on what he thought he saw on the prescription

Mr. McAllister stated that he would recommend that the Board save significant discipline for things that are absolute breaks in practice. Mr. McAllister stated that the company has made significant changes to prevent the error from occurring in the future.

On motion by Dr. Berry and Mr. Dutcher, the Board agreed to issue an advisory letter to Mr. Glenn. There were two nay votes by Dr. Smidt and Dr. Sypherd.

Mr. McAllister left the meeting at 10:40 AM.

Complaint #3371

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Loren Dorstad (Pharmacist), John Cerni (Pharmacy Supervisor), Richard Mazzoni (Director of Government Affairs for CVS/Caremark), and Roger Morris (Legal Counsel for CVS).

Compliance Officer Larry Dick gave a brief overview of the complaint. Mr. Dick stated that the complainant received Lithium Carbonate XR 300 mg instead of Lithium Carbonate 300mg.

Mr. Dick stated that the patient took the medication for about 16 days and the error was discovered by her doctor. The patient had told her new doctor that she felt worse than she had in the past and showed the doctor her medications and that is when the error was discovered. The patient returned to the pharmacy and the pharmacist corrected the error.

President Van Hassel asked Mr. Dorstad to address the error. Mr. Dorstad stated that he began working for CVS in 2004. Mr. Dorstad stated that when the company purchased the Osco pharmacy across the street their volume increased because the Osco pharmacy was closed and the prescriptions were transferred to their CVS pharmacy. Mr. Dorstad stated that the Pharmacist in Charge Ray Umbarger worked long hours to help with the transfer.

Mr. Dorstadt stated that on March 13th, he was the only pharmacist on duty. Mr. Dorstadt stated that he was on duty for 14 hours and this was the seventh day that he had worked. Mr. Dorstadt stated that the store was busy and he had stopped verifying prescriptions to clear out the messages on the doctor line and to call other pharmacies for copies. Mr. Dorstadt stated that he checked the prescription and cleared the prescription for the Lithium from the queue. Mr. Dorstadt stated that he felt that there was an issue with the prescription and set the prescription aside because he did not want to get further behind. Mr. Dorstadt stated someone removed the prescription from the counter and he does not know what happened to the prescription.

Mr. Dorstadt stated that on March 29th, Judy, the intern, called him over to the prescription counter and told him that the patient said that her prescription was filled incorrectly. Mr. Dorstadt stated that he pulled the original prescription and filled it correctly. Mr. Dorstadt stated that he told the patient that her initial prescription was filled incorrectly. Mr. Dorstadt stated that he told the patient that the strength was correct, but the medication she received was delivered over a 24 hour period. Mr. Dorstadt stated that the patient asked if she was to take the medication twice daily and Mr. Dorstadt stated that he told her that she was to take the medication twice daily. Mr. Dorstadt stated that he told her that he did not know how the error occurred and he apologized for the error and the patient left with the correct medication.

Mr. Dorstadt stated that there were two discrepancies. Mr. Dorstadt stated that he went over the prescription twice with the patient and this could have been eliminated if the doctor had reviewed the prescription with the patient. Mr. Dorstadt stated that the patient did not present a new prescription and he corrected the old prescription.

Mr. Van Hassel asked if CVS had any comments. Mr. Cerni stated that Mr. Dorstadt had talked about a conversion and the actual conversion had taken place prior to the error that occurred on 3/13/2007.

Mr. Cerni stated that on March 13th, Mr. Dorstadt had filled 307 prescriptions using 45 hours of technician help.

Mr. Cerni stated that a CVS policy involving the reporting of errors was not followed by Mr. Dorstadt. Mr. Cerni stated that CVS requires that errors be reported so that the patient can seek appropriate follow-up care. Mr. Cerni stated that CVS was made aware of the complaint when the Compliance Officer came to the pharmacy to conduct his investigation.

Mr. Van Hassel asked Mr. Dorstadt if he stated in his letter that he did not follow the procedures set up in the system. Mr. Dorstadt stated that he is not sure how to answer that question because there are a lot of grey areas.

Mr. Cerni stated that Mr. Dorstadt was certified on two occasions that ensures that prescriptions are filled accurately.

Mr. Dutcher asked the CVS management to explain how the patient's prescription was filled with the same number the second time.

Mr. Cerni stated that the proper procedure is to report the error, direct the patient to seek the proper medical care, and to obtain a new prescription. Mr. Cerni stated that if the prescription is edited, a report is generated. Mr. Cerni stated that the Compliance Officer had difficulty investigating the complaint because the prescription was edited and the edited label was placed on the back of the prescription.

Mr. Dutcher asked if the system allows a prescription to be edited. Mr. Cerni stated that the edit function is to be used prior to dispensing the prescription to the patient. Mr. Cerni stated that

they do not have a stop gap to prevent a person from editing the prescription to cover an error. Mr. Cerni stated that their policy states that if the prescription leaves the counter then a new prescription must be generated and the old prescription number should not be edited.

Mr. Dutcher asked Mr. Dorstadt how the patient received the XR formulation. Mr. Dorstadt stated that he did not give the prescription to the patient. Mr. Dorstadt stated that someone removed the basket from his counter and he does not know what happened to the prescription.

Mr. Dutcher asked if the prescription was entered wrong. Mr. Dorstadt stated that the prescription was entered wrong by the technician.

Mr. Dutcher asked Mr. Dorstadt if he verified the prescription. Mr. Dorstadt stated that he took the prescription out of the queue and thought he still had control of the prescription.

Mr. Cerni stated that he would like to clarify what Mr. Dorstadt means by taking the prescription out of the queue. Mr. Cerni stated that when a pharmacist takes the prescription out of the queue it means that they have completed the final verification and completed all the associated DURs.

Mr. Van Hassel asked if you can clear the queue without doing the work. Mr. Dorstadt replied yes.

Mr. Cerni stated that is not correct. Mr. Cerni stated that the queue screen is a priority system. Mr. Cerni stated prescriptions that are waiting go to the top of the queue. Mr. Cerni stated that a production technician prints the label and fills the prescription and performs a scan for accuracy. Mr. Cerni stated that the only way to clear the prescription from the queue is for the pharmacist to enter his initials that the final verification has been completed.

Mr. Morris stated that there is no way to be certain that the pharmacist has looked at the prescription, but by entering their initials in the queue the pharmacist is certifying that they have verified the prescription.

Mr. Dorstadt stated that he cleared the queue. Mr. Dorstadt stated that the queue has a position in going to the red. Mr. Dorstadt stated that you must clear the queue before it goes to the red because a report is generated indicating that the prescriptions were not filled in the time required. Mr. Dorstadt stated that it is a race to get the prescriptions done before the queue turns red. Mr. Dorstadt stated that he cleared the queue so that it would not go into the red. Mr. Dorstadt stated that he set the prescription aside because he had a question about the prescription.

Mr. Haiber asked Mr. Cerni if the company has a point of sale system. Mr. Cerni stated yes.

Mr. Haiber asked if the prescription was not verified if the prescription could be rung up on the register. Mr. Cerni replied that the cashier would not be able to ring up the prescription if the prescription was not verified.

Mr. Haiber asked Mr. Dorstadt if he approved the prescription because he did not want the prescription to show up on the report. Mr. Dorstadt replied yes.

Mr. Wand asked if the queue is an all or nothing queue. Mr. Cerni stated that if there is a prescription that is going to turn red in the system and the pharmacist feels there is an issue with the prescription he can make an edit of the prescription and the time clock would be reset on that particular prescription. Mr. Cerni stated that if the pharmacy reprocesses the prescription, the time would be reset.

Mr. Dutcher stated that he feels that a red light system puts undo stress on the pharmacist. Mr. Dutcher stated that the pharmacist prioritizes the red light over the patient care. Mr. Dutcher reminded Mr. Dorstadt that he is in charge and it is his responsibility to take care of the patient. Mr. Dutcher reminded Mr. Dorstadt that he is in charge of the number of hours that he works and if does not want to work that many hours he needs to say that he does not want to work those hours.

Dr. Smidt asked Mr. Dick if counseling was performed. Mr. Dick stated that information he received showed that counseling was denied. Mr. Cerni stated that Mr. Dorstadt's initials are on the refusal document.

Dr. Smidt stated that Mr. Dorstadt stated that he did not know where the prescription went yet his initials appear on the documentation for the refusal of counseling.

Dr. Smidt asked Mr. Dorstadt how he got a denial from the patient when he did not know what happened to the prescription. Mr. Dorstadt stated that the technicians put his initials on the prescription when there is a denial. Mr. Dorstadt stated that CVS allows the technician to put the initials on the form.

Dr. Smidt asked Mr. Dorstadt if he allows the technicians to put his initials on the consultation refusal. Mr. Dorstadt stated that most the time he hears the denial. Mr. Dorstadt stated that is standard practice at the store.

Mr. Van Hassel asked if that is CVS policy. Mr. Mazzoni and Mr. Cerni both replied no. Mr. Dorstadt stated that is the practice at his store.

Dr. Smidt stated that a complaint should be opened against the Pharmacist in Charge if policies are not being followed.

Mr. Dorstadt stated that in all the stores that he has worked the technician would ask the patient if they wanted counseled and if the patient said no then the technician would put the pharmacist's initials on the prescription.

Dr. Berry asked Mr. Dorstadt if he heard the technician ask the patient if she wanted counseled. Mr. Dorstadt stated that he listens in the background, but Mr. Dorstadt stated that he does not know the name of the patient that they are speaking to at the time.

Dr. Berry asked Mr. Dorstadt if there is a final scanning of the prescription. Mr. Dorstadt stated that the scanning method is not always followed at the store. Mr. Dorstadt stated that the prescription is filled before it reaches him.

Mr. Cerni stated that the prescription is scanned by the technician and entered. Mr. Cerni stated then a production technician generates a label from a queue, fills the prescription, and performs a scan which requires the technician to scan the barcode on the prescription label and the stock bottle. Mr. Cerni stated that the finished product is then given to the pharmacist and the pharmacist's job is to verify the completed prescription. Mr. Cerni stated that there is virtual imaging software that allows the pharmacist to identify the product. Mr. Cerni stated that there were five chances to correct the error.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously agreed to offer a Consent Agreement to Mr. Dorstadt due to violation of R4-23-402 (A) (11). The Consent Agreement will include the following terms: \$1,000 fine and 15 hours of CE on error prevention.

A roll call vote was taken. (Dr. Smidt – aye, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, Dr. Sypherd – nay, and Mr. Van Hassel – aye)

Mr. Dutcher stated that there was a total disregard by Mr. Dorstadt to not follow the established procedures and if he had followed the procedures the error would have been caught.

Dr. Sypherd stated that he is confused because he is not sure what actually happened because he is not sure where the blame should be placed on the breakdowns in the procedure.

Dr. Sypherd stated that he was concerned about the number of hours worked by the pharmacist.

Mr. Dutcher stated that Mr. Dorstadt had the ability to determine how many hours he wanted to work.

Mr. Cerni stated that Mr. Dorstadt was never mandated to work that many days in a row. Mr. Cerni stated that they have never had any issues with the pharmacist in charge at the store.

Dr. Sypherd stated that he voted nay because he feels that there is something else going on in this pharmacy. Dr. Sypherd stated that he feels that looking at the amplitude of the error he feels that it is an aggressive discipline.

On motion by Mr. Dutcher and Dr. Berry, the Board unanimously agreed that if Mr. Dorstadt does not sign the consent then the case would proceed to hearing.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously agreed to open a complaint against the Pharmacist In Charge at Store CVS #4795 for failure to control the pharmacy.

Dr. Smidt stated that there has been allegations that the Pharmacist In Charge created an environment that did not follow the policies.

Ms. Campbell asked what the violations would be charged against the Pharmacist In Charge.

Mr. Wand stated R-4-23-402 (A) (11) for failure to require that the final accuracy check be completed and R4-23-402(F) for failure to require the appropriate documentation of counseling.

Mr. Dutcher stated that allegations have been made that the Pharmacist in Charge is not following corporate procedures.

Mr. Cerni stated that the pharmacist in charge was out during that time period.

Dr. Smidt asked if the pharmacist in charge was still listed as the pharmacist in charge during that time period. Mr. Cerni replied yes.

Mr. Morris asked if the Board was going to take action against the Permit Holder because Mr. Mazzoni was requested to be present to represent the permit holder.

Ms. Campbell stated that Mr. Mazzoni was called as a witness and no formal complaint had been opened against the permit holder.

Complaint # 3372

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Angel Lin (Pharmacist), Monica Santos (Pharmacy Technician), and Chad Schuster (Pharmacy Supervisor).

Compliance Officer Rich Cieslinski gave a brief overview of the complaint. Mr. Cieslinski stated that a prescription for Acetaminophen/Codeine for a 17-month old child was presented to the pharmacy to be given prior to his dressing changes. The directions indicated that the 10 mg of Codeine per dose was to be given 45 minutes before dressing changes. The prescription medication comes in a standard formulation of Acetaminophen 120mg/5ml with Codeine 12mg/5ml. The pharmacy technician entered the directions incorrectly. The technician entered that two teaspoonfuls of medication were to be given every 15 minutes before dressing change. Two teaspoonfuls would be 24 mg of codeine. The staff pharmacist verified the prescription and the child's grandmother picked up the prescription. The child was given a total of 5 teaspoonfuls over a 30 minute period before the Home Nurse caught the error. The child was taken to the hospital for observation. There was no documentation of counseling.

President Van Hassel asked Ms. Lin to address the complaint. Ms. Lin stated that she feels terrible about the error. Ms. Lin stated that she failed to catch the error at the time of verification.

Ms. Lin stated that the error occurred on a Monday afternoon. Ms. Lin stated that it was one of the last prescriptions that she did that day. Ms. Lin stated that she believes that she was distracted and she abbreviated her verification process. Ms. Lin stated that she had talked about the directions with the technician. Ms. Lin stated that the technician had pointed to the end of the directions and asked for clarification. Ms. Lin stated that she agreed with the technician that it looked like 15 minutes before the dressing change. Ms. Lin stated that she approved the

directions for the technician. Ms. Lin stated that she thought she saw the correct directions on the label.

Ms. Lin stated since that time she has changed her practice. Ms. Lin stated that she had retrained herself to verify prescriptions differently. Ms. Lin stated that she takes the prescription and reads it to herself. Ms. Lin stated that she looks at all parts of the prescription for anything that is incomplete.

Ms. Lin stated that she checks the label against the prescription. Ms. Lin stated that she should have asked more questions.

Dr. Smidt asked who calculated the dose of medication to be given to the child. Ms. Lin stated that the dose was not calculated. Ms. Lin stated that she saw 10 milliliters instead of 10 milligrams.

Dr. Smidt asked Ms. Lin if she thought that two teaspoons was safe for a child. Ms. Lin stated that she pictures the patient and she would picture this patient as a child. Ms. Lin stated that dose may be appropriate for a 7 year-old but not a young child.

Dr. Smidt asked Ms. Lin where she would go to find information concerning what is an appropriate dose of medication for a child. Ms. Lin stated that she would use Clinical Pharmacology to look up the dose. Ms. Lin stated that an Intern at the store had flip cards with pediatric doses listed on the cards.

Mr. Dutcher asked Ms. Santos if she entered the prescription into the system. Ms. Santos replied yes.

Mr. Dutcher asked Ms. Santos if she consulted with Ms. Lin when she entered the prescription. Ms. Santos stated when she read the prescription she saw a dose of 10 mls every 15 minutes. Ms. Santos stated that she thinks that she verified the prescription directions with the pharmacist because she was not able to read the prescription.

Mr. Dutcher asked who places the label on the prescription. Ms. Lin stated that either the pharmacist or technician, who fills the prescription, places the label on the hard copy.

Mr. Dutcher stated that the directions do not make any sense. Ms. Lin stated that she should have called or faxed the doctor for clarification of the prescription.

Dr. Berry asked Ms. Lin if she knew that the patient was a child. Ms. Lin replied no. Ms. Lin stated that her problem with the date of birth is that she is using the date of birth as an identifier and she is not calculating the age of the patient.

Mr. Haiber asked if there are high dose alerts or pediatric alerts in the system. Mr. Schuster stated that there are alerts that require the pharmacist to enter their initials to proceed.

Mr. Schuster stated that the screen is not a different color, but ranks the alerts to the severity of the alert.

Mr. Schuster stated that the technician would ask the pharmacist to look at the screen and approve the interaction or the technician would print the alert and give the alert to the pharmacist.

Mr. Haiber asked if the technician overrides the high dose when they print the alert for the pharmacist. Mr. Schuster replied yes. Mr. Schuster stated that the alert also prints out on the label.

Ms. Lin stated that she now works at a mail order facility and has completed 25 hours of CE on errors.

Mr. Dutcher and Dr. Berry made a motion to issue an advisory letter to Ms. Lin. A roll call vote was taken and the motion failed. (Dr. Smidt – nay, Mr. Dutcher – aye, Mr. Haiber – aye, Dr. Berry – aye, Dr. Sypherd – nay, and Mr. Van Hassel – nay)

Mr. Van Hassel stated that he has concerns because the patient was a child.

Dr. Smidt stated that he felt that Ms. Lin did not have a strong answer on how to look up a pediatric dose.

Dr. Sypherd stated that he cannot believe that she did not call the doctor when she was unable to read the prescription. Ms. Lin replied that she wished she would have called the doctor.

Dr. Berry stated that there was more than one error. Ms. Berry stated that there was an error in the directions, on error in the sig, and the fact that she did not recognize the fact that the patient was a child.

Dr. Sypherd asked Ms. Lin if she know what a toxic dose of the medication was for a child. Ms. Lin stated that she knew the toxic dose for Acetaminophen.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously agreed to offer a consent agreement to Ms. Lin with the following terms: a \$1,000 fine and 30 hours of CE on pediatric dosing and prevention of pediatric errors. If Ms. Lin does not sign the consent, then the case would proceed to hearing. The violations include: R4-23-402 (A) (5) (6) and (7).

A roll call vote was taken. (Dr. Smidt – aye, Mr. Dutcher – aye, Mr Haiber – aye, Dr. Berry – aye, Dr. Sypherd – aye, and Mr. Van Hassel – aye)

Dr. Smidt and Dr. Sypherd made a motion to offer a consent agreement to Ms. Ramos with the following terms: 15 hours of CE in error prevention or pediatric dosing.

A roll call vote was taken and the motion failed. (Dr. Smidt – nay, Mr. Dutcher – nay, Mr Haiber – nay, Dr. Berry – nay, Dr. Sypherd – nay, and Mr. Van Hassel – nay)

Mr. Van Hassel stated that Monica made an error but she did check with the pharmacist and the she did as she was told by the pharmacist.

Dr. Smidt stated that he had concerns that the technician could override the DUR process. Dr. Smidt stated that he does not look at it as punitive because technicians are required to do CE for license renewal.

Dr. Berry made a motion to issue Ms. Ramos an advisory letter. There was no second on the motion. Dr. Berry withdrew her motion.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously agreed to dismiss the complaint against Ms. Ramos.

AGENDA ITEM 13 - Consideration of Consumer Complaint Committee Recommendations

The Consumer Complaint Review Committee met prior to the Board Meeting to review 22 complaints. Dr. Berry and Dr. Sypherd served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

The Board Members discussed Complaint #3409. Mr. Dutcher asked if it would be possible to move this complaint to a hearing because of past complaints.

Ms. Campbell stated that it is probably best to ask the respondent to appear for a conference, so that the Board may obtain additional information.

The Board Members decided that they would accept the committee's recommendation of a conference on Complaint #3409

On motion by Mr. Dutcher and Dr. Smidt, the Board unanimously agreed to accept the recommendations of the complaint review committee.

The following summary represents the final decisions of the Board in each complaint:

Complaint #3381 - Dismiss

Complaint #3383 - Dismiss

Complaint #3384 - Dismiss

Complaint #3385 - Advisory Letter to the Pharmacist

Complaint #3393 - Conference - Pharmacist

Complaint #3394 - Conference – Pharmacist and Pharmacy Technician

Complaint #3396 - Advisory Letter to the Pharmacist

- Complaint #3397 - Dismiss
- Complaint #3399 - Dismiss
- Complaint #3400 - Dismiss
- Complaint #3401 - Conference – Pharmacist and Pharmacy Technician
- Complaint #3402 - Dismiss
- Complaint #3403 - Dismiss
- Complaint #3404 - Dismiss
- Complaint #3405 - Table
- Complaint #3408 - Dismiss
- Complaint #3409 - Conference – Pharmacist
- Complaint #3412 - Conference – Pharmacist
- Complaint #3414 - Consent Agreement for Revocation. If not signed, proceed to Hearing.
- Complaint #3415 - Consent – Recommendation to accept signed Consent Agreement for PAPA
- Complaint #3416 - Consent Agreement for Revocation. If not signed, proceed to Hearing.
- Complaint #3417 - Consent Agreement for Revocation. If not signed, proceed to Hearing.

AGENDA ITEM 13 – Consent Agreements

President Van Hassel asked Board Members if there were any questions or discussions concerning the consent agreements. Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General’s Office and have been signed.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken.

(Dr. Smidt – aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

Denise Garcia	-	07-0054-PHR
Cathy Torda	-	07-0059-PHR
Robert Carranza	-	08-0007-PHR

AGENDA ITEM 15 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure

President Van Hassel addressed this issue. Mr. Van Hassel stated that Mr. Wand has reviewed the requests. Mr. Van Hassel stated that the pharmacy technician trainees have received a letter stating that they may only reapply for licensure as a pharmacy technician trainee one time. Mr. Van Hassel stated that during the next two years the pharmacy technician trainee must take the PTCB test and become certified if they would like to continue to work as a pharmacy technician.

On motion by Dr. Smidt and Dr. Berry, the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the reapplication process. The pharmacy technician trainee may reapply for an additional two years as a pharmacy technician trainee one time.

Pharmacy Technician Trainees Approved to reapply for licensure as a Pharmacy Technician Trainee for an additional two years.

1. Patrick Barshay
2. Allison Schultz
3. Tanisha Marie Nicks-Graham
4. Cody Scott
5. Kay Kennedy
6. Eva Barber
7. Yolanda Saucedo
8. Karen Lindstrom
9. Christina Vicente
10. Heather Jones
11. Amiee Lady
12. Ryan Gilmore
13. Zachary Sobol
14. Marcia Stevens
15. Jason Eden
16. Matt Helms
17. Seda Shakhnazaryan
18. Diane Taylor
19. Marissa Delgarito
20. Jennilee John
21. Richard Fernandez
22. Migdelina Esparza
23. Terrance Jones
24. Janice Correa
25. Josephine Colombo
26. Ryan Hartwig
27. Valerie Clifford
28. Olu Omodara

29. Christine Kinney
30. Alicia Clark
31. Belen Alcaraz
32. Mandi Newell
33. Margarita Nez
34. Jill Poarch
35. Lisa Quinn
36. Jessica Black

AGENDA ITEM 16 – Establishment of Task Forces for Prescription Monitoring and Quality Assurance

President Van Hassel opened the discussion by stating that the Board needs to establish two task forces. The first task force is for the Prescription Monitoring Program and the second task force is for the Quality Assurance Task Force. Mr. Van Hassel stated that the Board Members have received a list of potential members for both task forces.

Mr. Wand stated that neither list includes the Board Members that would like to participate on the task force. Mr. Haiber and Mr. Dutcher stated that they would like to participate on the Prescription Monitoring task force.

Mr. Wand stated that the Prescription Monitoring Task Force could meet on November 15th after the Board Meeting.

Mr. Wand stated that Mr. Miller from the Medical Board is resigning and has asked that Dr. Carol Peairs take his place on the task force.

Mr. Wand stated that the Board would need to approve the task force members. Mr. Wand stated that the task force meeting needs to be noticed and an agenda posted. Mr. Wand stated that minutes would need to be taken.

On motion by Dr. Smidt and Mr. Dutcher, the Board Members approved the task force members listed on pages 593 and 594 of the meeting book. The Board Members also approved adding Dr. Carol Peairs to the task force. The Board Members also approved the addition of the following Board Members and staff to the task force: Chuck Dutcher, Steve Haiber, Tom Van Hassel, Dean Wright, and Hal Wand.

The Board Members asked the attorney if a task force member leaves is the Board required to approve a new member at a Board Meeting. Mr. Wand asked the attorney if the Board President changes does the old president still remain on the task force, since the Board President is the Task Force chairman. The attorney stated that she would need to review the legislation and let the Board know what they would be required to do in each situation.

Mr. Van Hassel stated that there is a proposed list of task force members listed in the book for the Quality Assurance task force.

On motion by Mr. Dutcher and Dr. Berry, the Board unanimously approved the task force members listed on page 635 of the meeting book. The Board also approved the addition of the following Board Members and staff to the task force: Zina Berry, Ridge Smidt, and either the Executive Director or Deputy Director.

AGENDA ITEM 17- Possible Reconsideration Concerning Consent Agreement Offered to Safeway #1291- Case 07-0059-PHR

President Van Hassel opened the discussion by stating at the last Board Meeting the Board made a motion to offer a consent agreement to Safeway #1291.

Mr. Wand stated that Safeway is requesting that the Board reconsider their position.

Ms. Campbell stated that Safeway has made a counter offer to the Board.

The following individuals were present to speak on Safeway's behalf: Mark Hoffman (Pharmacy Supervisor), Jerry Denney (Pharmacy Supervisor), Roger Morris (Legal Counsel), and Amy Gobster (Legal Counsel).

Mr. Morris stated that at the last meeting the Board had a conference with Safeway and a pharmacist regarding an error. Mr. Morris stated that a consent agreement had been offered to the pharmacist and he accepted the consent agreement. Mr. Morris stated that the Board also authorized a consent agreement to be offered to Safeway which includes disciplinary action and a fine as part of that discipline. Mr. Morris stated that they are concerned about the disciplinary action on their record.

Mr. Morris stated that the issuance of the consent agreement was due to the Board's concern about Safeway's scanning equipment. Mr. Morris stated that there was an opportunity for the pharmacist to use the equipment to verify the product. Mr. Morris stated that the Board asked for a copy of the scanning information. Mr. Morris stated that they have brought a copy of the scanning information for the day in question.

Mr. Morris stated that the prescription in the initial complaint was not scanned and the pharmacist did not use the scanning device.

Mr. Morris stated that Safeway has the scanning equipment as an extra check for their pharmacist to use in verifying a prescription. Mr. Morris stated that they recommend that the pharmacists use the scanning equipment and even have a policy in place concerning the use of the scanning equipment.

Mr. Morris stated as he understood the issue was that Safeway was not following their own policies.

Mr. Morris stated that Safeway has detailed information about the scanning process at the store in question. Mr. Morris stated that the concern he has and the reason he advised Safeway not to sign the consent was that they are using a voluntary process to assist their pharmacists and the

law does not require that the scanning devices be used. Mr. Morris stated that they should not be penalized for a pharmacist not using a device that Safeway had provided as a tool to assist the pharmacist.

Mr. Van Hassel stated that the issue is not if the pharmacist used the scanner the issue was that the pharmacist checked the prescription incorrectly. Mr. Van Hassel stated that the company allows the pharmacist to choose if he wants to use the scanner.

Mr. Morris stated that policies are in place to require the pharmacist to use the scanner. Mr. Morris stated in some cases the pharmacist may not follow the policy and not scan the product. Mr. Morris stated that in some cases the product cannot be scanned.

Dr. Smidt asked Mr. Huffman if the pharmacist is allowed to bypass the policy. Mr. Huffman stated that per policy he was not allowed to bypass the scanner. Mr. Huffman stated that the policy is set forth in the Best Practices Manual.

Mr. Huffman stated that if he receives the report and notices that scanning is not being done he brings it to the attention of the pharmacist or team and reminds them of the policies and procedures in regards to scanning. Mr. Huffman stated that they must follow all the procedures.

Mr. Wand stated that when he reads the consent there is nothing in the consent about scanning. Mr. Wand stated that they are responsible for the employee's action and the verifying of the prescription.

Mr. Morris read the consent agreement which states the Board has the authority to discipline a permittee if the permittee or permittee's employee is guilty of unethical conduct.

Mr. Wand stated that the person did not verify the prescription correctly and that is an act of unprofessional conduct.

Mr. Huffman stated that the pharmacist admitted that he did not use the scanner.

Mr. Wand stated that there is nothing in the consent that mentions scanning or how he did the accuracy check just that the accuracy check was not correct.

Mr. Huffman stated that he monitors the scanning weekly and he makes sure the pharmacy manager understands the importance of scanning.

Mr. Morris stated that if the discipline is being offered by the Board is because the pharmacist made the error then the Board is inconsistent in its application and there have been many instances where a pharmacist has made a mistake and the permittee was not cited for those mistakes.

Dr. Smidt asked what is the policy when a pharmacist does not follow the best practices. Mr. Huffman stated that this pharmacist has a very good scanning record. Mr. Huffman stated that

he will review the procedure with the pharmacist. Mr. Huffman stated that the pharmacist did everything possible to correct the error.

Mr. Morris stated that there is no statute or regulation that requires that pharmacy to have scanners. Mr. Morris stated that the law does require that the pharmacist must verify the prescription. Mr. Morris stated that he would have to encourage companies not to put in policies that exceed the minimum requirements.

Mr. Denney indicated that they have many policies and procedures in place to check a prescription.

Ms. Campbell stated that the Board must decide if they would like to accept the offer made by Safeway to offer them an advisory letter in lieu of the offered consent agreement.

Dr. Smidt stated that he would like to have a strong case to take to a hearing if the Board wants to hold a permittee accountable.

Dr. Smidt stated that he would like other permit holders to know that they can be held accountable for their employees.

Dr. Sypherd stated that he would be satisfied with an advisory letter if it causes management to take more of an oversight over their pharmacists and their practices.

Mr. Wand stated that he could put a paragraph in the newsletter about the advisory letter and indicate the permit holder is responsible for the activities of their employees.

On motion by Dr. Smidt and Dr. Berry, the Board agreed to issue an advisory letter to the permit holder stating that the permit holder is responsible for the activities of the pharmacy and its employees. There was one nay vote by Mr. Van Hassel.

AGENDA ITEM 19 – NABP District 7 and 8 Annual Meeting – Ashland, Oregon- October 3-6, 2007

President Van Hassel asked Mr. Wand to address this topic. Mr. Wand stated that the Board has funds available to reimburse the expenses for two participants, Board Members or staff, to attend the NABP District 7 and 8 annual meeting.

Mr. Wand stated that he would like to attend the meeting because he is the secretary/treasurer for District 8.

Mr. Wand stated that Mr. McAllister would also like to attend the meeting.

On motion by Dr. Smidt and Dr. Berry, the Board unanimously approved the request by Mr. Wand and Mr. McAllister to attend the District 7 and 8 meeting in Ashland, Oregon. The Board also approved the reimbursement of Mr. Wand's and Mr. McAllister's expenses for attendance at the meeting.

AGENDA ITEM 20 – Hearings/Motions to Deem (9:10 AM September 12, 2007)

#1 Lisa Hunter

On September 11, 2007, the Board approved the request by Ms. Hunter for a continuance until the November meeting.

#2 Diane Godoy

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Ms. Godoy was present. Ms. Godoy was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate. Ms. Campbell stated that Ms. Godoy tested positive for cocaine on a random drug screen.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Dr. Berry and Mr. McAllister, the Board unanimously agreed to revoke Pharmacy Technician License 2033 issued to Diane Godoy. A roll call vote was taken. ((Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

#3 David Stickrath

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Mr. Stickrath was present. Mr. Stickrath was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Dr. Berry and Mr. Haiber, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously agreed to revoke Pharmacy Technician Trainee License 7534 issued to David Stickrath. A roll call vote was taken. ((Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

#4 Mohamed Abou-Zahra

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Mr. Abou-Zahra was present. Mr. Abou-Zahra was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Mr. Haiber and Mr. Dutcher, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

Dr. Smidt asked if the Board was making the motion to deem because the respondent did not sign his consent agreement.

Ms. Campbell stated that Mr. Abou-Zahra did not sign his consent agreement. Ms. Campbell stated that because Mr. Abou- Zahra did not sign his consent agreement, a hearing was scheduled at OAH. Ms. Campbell stated that a Notice of Hearing was sent to Mr. Abou-Zahra and he did not respond to the complaint, so a motion to deem was filed.

Mr. Dutcher stated that Mr. Abou-Zahra has ignored the Board by not responding to the complaint.

Ms. Campbell stated that Mr. Abou- Zahra had indicated to her that he intended to attend the Board Meeting today. Ms. Campbell stated that Mr. Abou-Zahra is not present.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously agreed to revoke Pharmacist License 12756 issued to Mohamed Abou-Zahra. A roll call vote was taken. ((Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

#5 Wanda Banks

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Ms. Banks was present. Ms. Banks was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Dr. Berry and Mr. Haiber, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

Mr. Wand stated that Ms. Banks was represented by counsel in the beginning and is no longer represented by that attorney.

Dr. Sypherd stated that she tested positive on a pre-employment screen and did not divert drugs from the pharmacy.

Mr. Dutcher stated that Ms. Banks did not respond to the complaint.

On motion by Dr. Smidt and Mr. McAllister, the Board unanimously agreed to revoke Pharmacist License 7882 issued to Wanda Banks. A roll call vote was taken. ((Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

#6 Joel Frahm

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Mr. Frahm was present. Mr. Frahm was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Dr. Berry and Mr. Haiber, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

Mr. Dutcher stated that Mr. Frahm stole a significant amount of narcotics from the pharmacy.

On motion by Mr. Dutcher and Dr. Syphed, the Board unanimously agreed to revoke Pharmacy Technician license 11905 issued to Joel Frahm. A roll call vote was taken. ((Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

#7 Eric Orcelletto

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State’s Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Mr. Orcelletto was present. Mr. Orcelletto was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State’s motion to Deem Allegations Admitted.

On motion by Dr. Berry and Mr. Haiber, the Board unanimously agreed to grant the State’s Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously agreed to revoke Pharmacy Technician License 9484 issued to Eric Orcelletto. A roll call vote was taken. ((Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

#6 Kimberly Brunner

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State’s Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Ms. Brunner was present. Ms. Brunner was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

On motion by Dr. Berry and Mr. Dutcher, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt - aye, Mr. Dutcher - aye, Mr. Haiber - aye, Dr. Sypherd - aye, Dr. Berry - aye, and President Van Hassel - aye.)

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed to revoke Pharmacy Technician Trainee License 6383 issued to Kimberly Brunner. A roll call vote was taken. ((Mr. McAllister - aye, Dr. Smidt - aye, Mr. Dutcher - aye, Mr. Haiber - aye, Dr. Sypherd - aye, Dr. Berry - aye, and President Van Hassel - aye.)

AGENDA ITEM 21 – Review of letter from Bereket Gebre-Egziabher Concerning Past Board Order 04-0014-PHR.

President Van Hassel stated that the Board has received a letter from Bereket Gebre-Egziabher concerning a consent agreement Mr. Gebre-Egziabher signed in the past. Mr. Van Hassel stated that Mr. Gebre-Egziabher is requesting that the Board review the case again.

Dr. Berry stated that if Mr. Gebre-Egziabher felt that he was wrongfully accused he should not have signed the consent agreement.

Ms. Campbell stated that the time has passed for Mr. Gebre-Egziabher to appeal the consent order.

Mr. Wand stated that Mr. Gebre-Egziabher had stated to him that he regrets signing the consent order. Mr. Wand stated at this time the case is closed.

Dr. Smidt stated that Mr. Gebre-Egziabher referred to himself as a rookie pharmacist. Dr. Smidt stated that once you are licensed as a pharmacist, you are not a rookie pharmacist.

Mr. Van Hassel closed the discussion stating that the Board is not able to reopen the case and change their original decision because Mr. Gebre-Egziabher did sign the consent agreement.

AGENDA ITEM 22 – Call to the Public

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

Mr. Gebre-Egziabher came forward and expressed his concerns that the Board would not reconsider his case

AGENDA ITEM 23 – Discussion of Items to Be Place in a Future Meeting Agenda

President Van Hassel asked if there were any topics that Board Members would like placed on a future agenda for discussion.

Mr. Wand stated that the lobbyist suggested that the Board should wait a year before requesting any new legislation.

Mr. Wand stated that the Board may want to propose legislation again this year to remove the requirement that there must be a Pharmacist In Charge at a non- prescription manufacturer. Mr. Wand stated that the Board used that Bill as a strike-all bill in an effort to have the Prescription Monitoring Bill approved.

Mr. Wand stated that Dr. Sypherd stated that there was legislation passed that allows healthcare boards to issue CE requirements without taking disciplinary action against the licensee. Mr. Wand stated that he would research the legislation.

AGENDA ITEM 24 – Adjournment

There being no further business to come before the Board, **on motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to adjourn the meeting at 2:05 P.M.